

**ACTS**  
**PASSED AT**  
**THE ANNUAL SESSION**  
**OF THE**  
**GENERAL ASSEMBLY**  
**OF THE**  
**STATE OF ALABAMA**

**November 1851 through February 1852**

[Original title page is missing]





(No. 1.)

AN ACT

1851-'52

Further to equalize and improve the Revenue Laws.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall also be annually assessed and paid on all passes, canals or channels, or property of the like kind, estimated in the manner of mills, distilleries, manufacturing establishments, &c., the same tax as is paid on toll bridges, turnpikes and ferries, that is to say for each hundred dollars of the real value of property twenty-five cents,..... \$0 25

Property taxed.

On all money which is purposely kept out at interest, whether lent to persons, corporations or companies, in or out of the State, in any form or manner whatever, and whether the evidence of such indebtedness is annually or otherwise renewed or not, and on which tax is not paid in some other form or manner to the State annually, the same rate shall be annually assessed and paid as on money loaned out at or under the legal rate of interest, that is to say for each hundred dollars, and at that rate, twenty-five cents..... 25

Tax on money at interest.

On every deck or part of a deck of playing cards sold or kept for use, ten cents..... 10

Cards.

On every bowie knife or revolving pistol, two dollars..... \$2 00

Bowie knives and pistols.

Sec. 2. Be it further enacted, That hereafter, to provide against omissions and evasions, all lands shall be assessed and taxes paid thereon in the county in which it lies, whether a tract be divided by a county line or not.

Whose lands shall be assess'd.

Sec. 3. Be it further enacted, That the property of soldiers who served in the war with Mexico, and of those who served in the Florida war, as well as those who served in the war of 1812, and of their widows in case of their decease, is exempt from taxation to the extent the same is exempt from execution.

Soldiers Exempt

Sec. 4. Be it further enacted, That licenses may hereafter be granted by judges of probate of the different counties to practice the daguerrean art at one station in the

Daguerreotypists.

county or in a village not having more than five hundred inhabitants on the applicant paying as a State tax.. \$5 00  
In towns with not more than four thousand inhabi-

tants.....\$10 00

In cities with more than four thousand inhabitants. 25 00

To practice the art generally any where in the

State.....50 00

For the exhibition of a circus, feats of activity and slight of handm for each exhibition not exceeding

twenty-four hours .....10 00

These provisions are to supersede rates prescribed

in the code. A license may be obtained as afore-

said for a ten pin alley at any watering place for

six months only by paying annually as heretofore,

ten dollars.....\$10 00

And for a billiard table..... 25 00

But if used for a longer time during the year, un-

der any pretence, the owner or proprietor of the alley

or billard table shall be liable to indictment in the same

manner as if no license had been granted. And it is

hereby expressly made the duty of the judge of probate of

each county by himself or agent to enquire of every person

doing or offering to do any business for which a license is

required under this or any other act, and ascertain whether

the law has been complied with, and if not to cause the

person to bound over to court. When any citizen, as-

essor or other public officer may have information and be-

lieve that money due for the tax will be lost to the treasury

by removals or otherwise, unless received immediately, the

same may be paid to the county treasurer, who is required

to give duplicate receipts therefor, one to the person paying

the other to the judge of probate, who shall endorse it to

the collector. The treasurer shall pay the same over to

the collector as soon as collections commence to be paid

over by him as other money, and the treasurer charging

himself with any portion thereof which belongs to the

county treasury. And all moneys due the county treasury

shall be paid over as soon as collections are completed to

the county treasurer, or it shall be the duty of the treasu-

rer as well as that of the solicitor of the district in his ab-

sence or default, in the name of the county, on three days,

previous notice, to move for and obtain a judgment for the

same, the interest and costs; and ten per cent. damages

may be added by the court, if the circumstances require it,

against any officer and his securities on their official bonds

or other person holding the same.

Circus compa-  
nies.

Ten-pin alleys

Duties of judge  
of probate,  
treasurer, &c.

How taxes may  
be collected.

Sec. 5. Be it further enacted, That instead of a transcript or copy of the assessed books by the assessor, the judge of probate is required to make out and forward to the comptroller of public accounts an abstract of the same in such form as said comptroller may prescribe and direct; and the court of commissioners may make such allowances to said judge therefor as they may think adequate and best. And the judge and commissioners shall hereafter receive \$2 50 per day (five cents per mile for travel and ferriage) while closely and necessarily engaged in examining the books and performing other duties in connection with the revenue; but the judge and one commissioner only shall be competent to do all such duty in the event a fuller attendance is not deemed indispensable by the court.

Judge of probate to make abstract.

Per diem of judge and commissioners.

Sec. 6. Be it further enacted, That hereafter the tax collector shall pay the assessor his commissions or other dues, taking from him duplicate receipts, one to be received, allowed and filed by the comptroller if necessary and if the same be correct. And it shall hereafter be the duty of the tax collectors of the several counties to record the receipts they obtain from the comptroller as early as practicable in the office of the judge of probate of the respective counties, in such accessible form or place as the judge may prescribe, so as to readily detect, by reference to the different counties, any errors or deficiencies in the comptroller's office.

How assessor shall be taxed.

Tax collectors to record receipts.

Sec. 7. Be it further enacted, That after either the assessor or collector shall have faithfully given the notices required by law to give in or pay taxes, if any person, without sufficient cause, fail or refuse to appear and give in or pay tax, and it thereby becomes necessary for such officer to visit the residence of such person, said officer is authorised to charge therefor (if in a city or town twenty-five cents, if in the country) fifty cents, to be charged and collected at the same time and in the same manner as taxes. But if either of said officers presume to charge or collect any such sum when the proper notice had not been given in good faith, or when from other cause it was improper, the same may be recovered back with costs before any justice of the county.

Extra charges for failure to give in.

Sec. 8. Be it further enacted, That no higher nor additional tax shall be paid on account of the code adopted at the present session coming into operation and changing the tax year so as to make it end on the 31st of August or other time; and to provide against that as well as to avoid

New Code not to interfere with tax laws.

any other conflict or irregularity in the operation of any provisions of the revenue laws, full power and authority are hereby given to the comptroller to order the assessors or collectors either to abate and deduct from the assessment (or to add to) the same as in such manner as to obviate the tax being paid twice over the same lapse of time, and to prevent a chasm during which no tax would be paid. He is also authorised at all times to adopt any other rules and regulations for like purposes, submitting the same to the governor for his examination and approval, and shall communicate the same to the different officers concerned by printed circular or otherwise.

Tax not to be paid twice.

Sec. 9. Be it further enacted, That it shall be the duty of the comptroller to publish and distribute, as early as practicable after the adjournment of the assembly, this act any only such other parts of the existing revenue laws, embracing the subjects and sources of taxation, as he may deem sufficient; condensed in such form as he may choose and as he may deem best calculated to give a full and thorough understanding of the same, and to secure an equal and uniform compliance therewith.

Comptroller to publish and distribute revenue acts.

Sec. 10. Be it further enacted, That the tax law for the city of Mobile be and the same is so amended that the tax collector may sell real or personal property for taxes without the necessity of exhausting the personal property before selling real estate as required by law, either for city or special taxes of any kind, and the fees to the collector for every such sale shall be the same as those specified in section twenty-two, under the act of 1844, (consolidating the several acts of incorporation of the city of Mobile and to alter and amend the same, approved the 15th January, 1844)

Tax law for Mobile.

Sec. 11. Be it further enacted, That if any person or persons shall be dissatisfied with the assessed value of his, her or their real estate in the city of Mobile, and shall give notice to the mayor or aldermen and council of the same, witnesses shall be heard on oath to affix a proper valuation.

Mobile continued.

Sec. 12. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed: Provided, That no prosecution, suit or claim whatever pending or to be brought under existing laws shall in any manner be effected, impaired or altered by the passage of this act.

JOHN D. RATHER, Speaker of the House.

CHARLES McLEMORE, President of the Senate.

Approved, February 10, 1852.

H. W. COLLIER.

(No. 2)

## AN ACT

To prevent willful evasions of the Revenue Laws of this State.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is the duty of all county officers to see, within the sphere of their observation, that the revenue laws are being observed and faithfully executed, and if any judge of probate, sheriff, clerk, assessor or collector or other county officer have reason to believe that any person is peddling goods of any kind as agent or otherwise, or is in any capacity exhibiting or selling slaves, or doing any other business for which license is required, without license, or is doing any other act by which the revenue laws of this State (or any provisions thereof) are directly or indirectly violated or evaded, it is hereby made the duty of such officer to make affidavit of the same immediately before some justice of the peace, and said justice shall cause such person to be, on warrant, brought forthwith before him, and if the proof be sufficient, bound over with good security to answer for the charge at the next circuit court; he must also summon or bind over a sufficient number of witnesses who know the facts; the justice may also cause such persons to be bound over on their own observation or knowledge of the facts.

Duty of county officers.

Sec. 2. Be it further enacted, That when an assessment is made for money loaned or used on or for any item or species of property, interest, employment, &c., whatever, as required and contemplated by the provisions of law, or claim made for license, and the money due thereon is likely to be lost by delay or cannot be collected in the ordinary mode prescribed by law, it is the duty of the collector if he have good reason to believe that any person is indebted to or hath effects of the person from whom the amount is due for such assessment, &c., to apply to the judge of probate, stating the facts to him, the amount due, to whom assessed, and the name of the person indebted; and said judge must issue process of garnishment in the usual form against the person indebted, requiring him to appear before him at any time he may appoint not beyond thirty days, said garnishment to be executed by the collector, who, in respect to such garnishment, is to act as constable or sheriff; said judge has jurisdiction of any amount, but is to proceed in all other respects as in cases of garnishment before justices of the peace, if a sufficient amount be condemned in the

hand of the garnishee to pay the assessment and costs. The costs are one dollar to the judge and one dollar and fifty cents to the collector, to be paid by the garnishee as a part of the amount condemned and to be collected by execution if not paid. Money thus realised must be immediately paid over and accounted for in the proper list and as other monies are.

Sec. 3. Any county officer who shall knowingly neglect any duty contemplated and prescribed by this act, is guilty of a misdemeanor, and may be proceeded against by indictment, and on being found guilty, fined any sum the jury trying the offence may assess.

Penalty for failure to enforce his law.

Approved, February 10, 1852.

(No. 3.)

### AN ACT

For the apportionment of the State into seven Congressional Districts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the congressional districts of this State shall remain as established by the act entitled "an act to divide the State of Alabama into seven congressional districts, approved February 13th, 1843; and that the county of Choctaw shall constitute a part of the 4th, and the county of Hancock a part of the 5th congressional district, said counties voting separately as other counties.

Choctaw county.

Sec. 2. Be it further enacted, That the sheriffs of the counties of Choctaw and Hancock be authorised and required to hold elections in their respective counties, and to make returns of the same to the respective returning officers of their districts, as prescribed by the law of 1843, and that all other provisions of said law shall be of force and effect in the counties of Choctaw and Hancock.

Hancock county.

Sec. 3. And be it further enacted, That this act shall cease to exist as a law from and after the first day of March, 1854.

Act expires.

Approved, February 10, 1852.

(No. 4.)

### AN ACT

To apportion Representatives among the several counties in this State, and to divide the State into Senatorial Districts.

Sec. 1. Be it enacted by the Senate and House of



Representatives of the State of Alabama in General Assembly convened, That representatives shall be apportioned among the several counties in this State, in the manner following to wit: The county of Mobile, four; the counties of Barbour, Benton, Chambers, Cherokee, Franklin, Jackson, Macon, Pike, Talladega and Tallapoosa, three representatives, each; the counties of Butler, Coosa, Dallas, DeKalb, Fayette, Greene, Henry, Lauderdale, Lawrence, Limestone, Lowndes, Madison, Marengo, Marshall, Montgomery, Bibb, Blount, Perry, Pickens, Randolph, Russell, Shelby, Sumter, Tuscaloosa, and Wilcox, two representatives, each; the counties of Autauga, Baldwin, Clarke, Coffee, Choctaw, Conecuh, Covington, Dale, Monroe, Morgan, St. Clair, Hancock, Marion, Walker, Washington and Jefferson, one representative, each.

Number of representatives and Tallapoosa.

Sec. 2. Be it further enacted, That the county of Mobile shall constitute the first senatorial district; second district, Baldwin, Monroe and Clarke; third, Coffee, Covington, and Conecuh; fourth, Dale and Henry; fifth, Barbour; sixth, Pike; seventh, Russell; eighth, Macon; ninth, Montgomery and Autauga; tenth, Dallas and Wilcox; eleventh, Sumter, Choctaw and Washington; twelfth, Greene and Marengo; thirteenth, Perry and Bibb; fourteenth, Lowndes and Butler; fifteenth, Coosa; sixteenth, Tallapoosa; seventeenth, Chambers; eighteenth, Randolph; nineteenth, Talladega; twentieth, Benton; twenty-first, Jefferson and Shelby; twenty-second, Tuscaloosa; twenty-third, Pickens; twenty-fourth, Marion and Fayette; twenty-fifth, Franklin; twenty-sixth, Lawrence, Hancock and Walker; twenty-seventh, Blount and St. Clair; twenty-eighth, Cherokee; twenty-ninth, Marshall and DeKalb; thirtieth, Jackson; thirty-first, Madison; thirty-second, Limestone and Morgan; thirty-third, Lauderdale.

Senatorial districts.

Sec. 3. And be it further enacted, That the sheriffs of the counties of Monroe, Covington, Dale, Montgomery, Dallas, Choctaw, Marengo, Jefferson, Fayette, Hancock, St. Clair, Marshall, Limestone, Butler and Perry, be the returning officers of the senatorial districts to which their counties are attached; and it is hereby made the duty of the sheriffs of the counties in each senatorial district to make to the returning officers of the proper senatorial districts returns of the elections holden in their respective counties for senators, within ten days after any such election; and it shall be the duty of the returning officers of the different senatorial districts to compare the returns so made to them, and declare the election, make returns and give

Returning officers.

Time of making returns.

certificates to the persons elected, as is now provided by law; and if there should be a tie, shall give the casting vote.

Approved, February 10, 1852.

(No. 5.)

# AN ACT

To establish a State Hospital for Insane persons in Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be established in Alabama a state hospital for the care and proper treatment of insane persons; the county in which it is to be located to be determined by a joint committee of the Senate and House of Representatives, to be appointed by the president of the Senate and speaker of the House respectively, consisting of one from each judicial circuit, to be associated with the governor, and the particular site to be selected by five commissioners to be named by said committee.

Location.

Sec. 2. Be it further enacted, That the said institution shall be a body corporate and politic, under the name and style of "The Alabama Insane Hospital," and by that name may sue and be sued; may contract and be bound; have, possess and enjoy monies and property, and have perpetual succession; may have and use a common seal, and break or alter the same at pleasure; and for the purposes herein set forth, shall have all the necessary powers, such as appertain to corporate bodies, with all powers properly incident to corporations of such nature.

Body corporate,  
&c.

Sec. 3. Be further enacted, That the property of said corporation shall consist of such fund or funds as may from time to time be provided by the State for the establishing and support of said hospital, and of such other monies, property, and assets, as may be acquired by the said institution by gift, devise, bequest, or otherwise, and the profits thereof. The said means shall be employed in the acquisition of a proper site and the erection of the proper and necessary buildings, to be used for the care, the maintenance, the treatment, and cure of insane persons.

Property of corporation.

Sec. 4. Be it further enacted, That the affairs of the said corporation shall be transacted, managed and governed by a board of three trustees until it shall be ready to receive patients, any two of whom shall be competent to act;

Board of trustees.



and afterwards, and when the necessary out-buildings shall be erected and ready for use, then the said corporation shall be governed by a board consisting of a president and six trustees, not less than four of whom, out of the seven, shall be a quorum competent to transact business, a majority of which quorum may decide in all cases, and bind the said corporation by its acts.

Sec. 5. Be it further enacted, That the said president and trustees shall be nominated by the governor of Alabama so often as necessary; said nomination shall be submitted to the Senate for approval or rejection. The governor shall, temporarily, fill all vacancies in said board in the recess of the Senate, and all appointments made by the governor shall continue till the action of the Senate be had thereon. The first three trustees shall be selected with a view to their qualifications, to cause the necessary out-buildings to be erected and completed, and may continue to serve till they are so completed, afterwards the president and trustees shall be selected with a view to their capacity for the management of the hospital. Three of said permanent trustees, or the president and two trustees, shall be resident of the county where the hospital shall be located, or of an adjoining county, and the remainder shall be residents of other parts of the State. When the said six permanent trustees shall be appointed, two shall serve for two years, two for four years, and two for six years. Their appointments shall be specified respectively, and the duration of their term of office shall run from the time of approval by the Senate. All subsequent appointments shall be for six years, and all vacancies shall be filled for the unexpired term of the office become vacant. The president shall be appointed for six years, to run from the day of approval as aforesaid, and all appointments made shall, before approval, be considered temporary, filling of vacancies till regularly filled and approved. The governor shall have power to remove the president, or any trustee, for cause deemed sufficient by him. The Senate, may likewise, by a vote of a majority of the whole body, at any time, make such removal. The president and trustees shall receive no compensation for their services, but may receive traveling expenses actually paid out while attending on the business of the corporation.

How the officers shall be chosen.

Qualifications.

Residence of trustees.

How appointed and term of office.

Compensation.

Sec. 6. And be it further enacted, That it shall be the duty of the comptroller of the State to appropriate and set apart out of the revenue of the State of Alabama, other than trust funds, and which shall actually come into

Moneys, how to be expended.

the treasury of the State of Alabama, five per centum on the total amount of the said revenues for and during the term of four years, next ensuing the date of this act, which sums shall be placed to the credit of the fund for "The Alabama Insane Hospital;" and the state treasurer shall hold the moneys so appropriated, subject to the warrant of said comptroller, as herein provided; and the said fund so appropriated is hereby declared to be applicable to the objects, uses and purposes of the said institution, and for creating and maintaining the same.

Sec. 7. Be it further enacted, That no place shall be selected for the site of the said hospital, unless it shall combine the following advantages: 1st. It shall contain at least one half section of land, one hundred acres of which shall be susceptible of cultivation, to which a good title can be obtained. 2d. It shall be commodiously situated, so as to be easily accessible by means of the principal communications. 3d. It shall be in a healthy situation. 4th. There shall be upon the premises a supply of never failing water of good quality. 5th. It shall be so situated as to receive supplies of fuel, either of wood or coal, at moderate costs, as well as of provisions and supplies. 6th. The site of the buildings shall be susceptible of good underground drainage. 7th. It shall command cheerful views. 8th. It shall open such aspects as will admit the sun's rays a portion of the day into every suit of the building apartments.

Location of the institution.

Sec. 8. Be it further enacted, That it shall be the duty of the said board of trustees hereby created to procure the title to the land for the site of the hospital, to be properly examined, executed and recorded, so as to secure the property therein to "the Alabama Insane Hospital," and so soon thereafter as practicable, to enter into possession of said land and cause to be constructed and built thereon, by means of such contracts and agreements as they may make in the name and for said corporation, and on the best terms practicable, the proper and necessary buildings for the said hospital, together with all the improvements necessary for the accommodation of not less than two hundred patients, according to the best plan they may devise, and such as is usual and proper and most approved for such institutions. The said hospital shall be constructed of brick, or of unhewn stone, the foundations shall be solid; the sills and caps of the doors and windows shall be of stone or other durable and incombustible material; the partition walls shall be of brick, and shall contain flues for ventilation,

Titles to the property.

Construction of buildings.

flues for conducting hot air, and conducting flues, and the said buildings shall be well covered and finished and made fire-proof.

Sec. 9. Be it further enacted, That the said trustees shall, for the payment of said land, buildings and improvements, when done properly and according to contract, draw orders, directed to the comptroller, and said drafts shall be audited and allowed by said comptroller out of the said hospital fund, and paid by warrants on the treasurer: Provided, That when any such order shall be drawn, report shall be made to the governor by the trustees, showing for what purpose it is drawn, and he shall have approved and countersigned the same before it shall be allowed and paid: Provided further, That the said trustees shall deposit copies of all contracts by them made, concerning said buildings, in the office of Secretary of State, so soon as made, for the information of the governor; and all proper expenses and dues shall be paid by said trustees in like manner.

How payment  
for buildings  
shall be made.

Proviso.

Sec. 10. Be it further enacted, That the said three trustees shall keep records of all their acts and proceedings, and shall make to the governor, annually, on the first Monday in December, a full and detailed report of all their acts and proceedings, until the said buildings and improvements shall be completed, which fact they shall report when it shall occur; they shall then make full settlement of all things appertaining thereto, whereupon their functions shall cease; and the entire cost of the said land and improvements shall not exceed in the whole, until otherwise ordered, the sum of one hundred thousand dollars.

Duty of trustees.

Sec. 11. Be it further enacted, That from and after the time when the said buildings shall be completed, the said president and six trustees shall control and manage the affairs of the institution; they shall have power to make all regulations and by-laws for the government of the corporation, and shall put the hospital in use for the support, treatment and cure of the insane; they shall appoint a secretary and treasurer and such other officers and agents as may be necessary; they shall appoint a superintendent of the hospital, who shall have in charge the conducting of the same. The superintendent shall be a skillful physician, shall bear an unblemished moral character; he shall have received an enlightened and thorough professional education; be possessed of prompt business habits, and be of a humane, kindly disposition; he shall be a married man, and shall, with his family, reside constantly in the institu-

Trustees shall  
appoint officers,  
&c.

Superintendent  
--his duties and  
qualifications.

tion. The said superintendent shall be appointed for a term not less than eight years, and shall not be removed, except for incompetency, fully shewn and declared, or for the neglect and infidelity to the trust reposed in him; the said superintendent shall appoint all such assistant physicians, nurses, servants and agents as by the rules of the institution shall be allowed and wanted; and he shall have full control over them, and may discharge them at pleasure; he shall direct their several duties and see to the performance thereof; and he shall be responsible to the board for the proper performance of those duties. The trustees shall determine what salaries and compensation shall be paid to the superintendent and other officers, servants and agents employed, and shall have power to remove any of them; the board shall hold an annual meeting and also monthly meetings, and such other meetings as they may provide. The monthly meetings may be held by the three trustees residing near the hospital, for all ordinary purposes, to act under the authority of the board, and each, in rotation, shall serve one month, to visit the hospital once a week, and the monthly board shall see that the establishment is at all times supplied with provisions, fuel, water, clothing, medicines, implements and all other things necessary for the health, comfort, cleanliness and security of the patients. The board, at their annual meetings, shall rigidly examine into the manner in which the hospital is and has been conducted, and shall investigate closely the condition of every department of it. The treasurer shall receive and pay out of the moneys of the corporation, and shall report annually to the secretary of state all sums received and paid out by him.

Superintendent's term of office.

Shall appoint officers.

Salaries.

Shall hold annual and monthly meetings.

Duties of the board.

Sec. 12. Be it further enacted, That insane patients shall be received from the several counties of this State in the ratio of their insane population, and the several counties shall be so entitled: Provided, They shall report to the secretary of state the census of their insane persons respectively, such reports to be made annually by the judge of the probate court.

How received.

Proviso.

Sec. 13. Be it further enacted, That persons in indigent circumstances while residing in the hospital, and whether in their own right or by reason of the State bearing their expenses, shall be chargeable with no more than the actual cost for clothing, nursing, board and medical attendance. Patients whose expenses shall be payable by themselves or their friends, and who are not chargeable upon the counties, shall pay in measure with the care received and according to the regulations which may be adopted.

Duties of patients.

The board shall publish the by-laws and regulations of the institution, and cause them to be from time to time circulated in the State for general information. They may provide for taking bond and security from all their agents and officers, conditioned for the faithful discharge of the duties of their office. And when the said president and trustees shall be fully organised they shall have power to draw all funds in the state treasury, by order of the comptroller, as above provided for the three trustees.

Board shall  
publish bylaws.

May take bond  
and security.

Sec. 14. Be it further enacted, That the said institution shall be required to receive persons charged with offences punishable by death or imprisonment, who shall be found to be insane, and who may by reason of such insanity be committed by any court, either before or after conviction, and the expenses of keeping such person, if he be in indigent circumstances, shall be paid by the State.

Shall receive  
insane persons  
punishable by  
death or imprisonment.

Sec. 15. Be it further enacted, That for admission of state patients, other than such as may be in custody upon a criminal charge, the following proceedings shall be had: First: Some respectable citizen, resident of the county to which said patient belongs, shall file with a justice of the peace of said county a statement in writing substantially as follows:

State of Alabama, ) ss.  
                          county. )

The undersigned, a citizen of the State of Alabama, residing in said county, hereby states as follows: (here insert the name of the person) is insane. His insanity is of less than two years duration (or his being at large is dangerous to the safety of the community.) He is in needy circumstances, has a legal settlement in                    county, and is a citizen of the State of Alabama. These facts can be proved by                    and                    (naming at least two disinterested persons, one of whom shall be a respectable physician.) Dated this                    day of                    , A. D.                    E. F.

Second: The justice shall issue subpoenas for the persons named as witnesses and such other persons as he may think proper, requiring them to appear before him at a special time to testify concerning the facts set forth in the said statement. Subpoenas may also be issued for witnesses in behalf of the person alleged to be insane. If after such request the justice shall be satisfied of the facts set forth in the statements, he shall require the medical witness forthwith to make out such certificate as is required for paying patients in the 18th section of this act, and the justice shall forthwith make out a certificate which shall read substantially as follows:

Form of statement.

State of Alabama,) ss.  
                   county. )

I, the undersigned, justice of the peace in and for the county aforesaid, hereby certify that I have visited of said county, a person alleged to be insane, and have this day held an inquest in regard to him according to law. That he has a legal settlement in county, that he is a citizen of the State of Alabama, and is a fit subject to be sent to the state hospital for the insane, to undergo treatment therein. He is in needy circumstances and a fit subject for the bounty of the State; I am satisfied that his being at large is injurious to himself and disadvantageous, if not dangerous, to the community. Witness my hand and seal this, day of , A. D. C. D. Provided, That five days previous notice of the time and place shall be given to the alleged lunatic before said justice shall proceed to hear and determine the question of insanity: Porvided further, That in all cases in which the supposed lunatic or insane person shall be in custody, upon a criminal charge, either prior or subsequent to conviction, and the insanity or lunacy has been adjudged insane by or under an order of the court having jurisdiction of the offence, that a copy of such, certified by the clerk of the court, shall be sufficient evidence of insanity to authorise the reception of such person into the hospital: And provided further, That where a person thus under criminal charge shall subsequently, in the opinion of the superintendent, become sane, he shall issue an order to the sheriff of said county in which such criminal proceedings may be pending; whereupon said sheriff shall be required to receive such person into his custody, to be dealt with as provided by law.

Justice's certificate.

Proviso.

Sec. 16. Be it further enacted, That immediately after the inquest above provided the justice shall transmit to the judge of the probate court a certificate of said facts, attested by a physician, and he shall file the same; and the said judge shall proceed, upon the receipt of said attested certificate, to transmit a copy of the same to the superintendent of the state hospital, accompanied with an application for the admission of the patient therein named. The superintendent shall, immediately upon receipt of said application, advise the judge when the patient can be received. The judge shall thereupon, in due season for the conveyance of said patient to the hospital by the time appointed, issue his warrant to any suitable person requiring him forthwith to receive said insane patient and con-

Proceedings after inquest.



vey him to the Alabama state hospital. Said warrant shall read substantially as follows:

State of Alabama,) ss.  
county. )

Form of war-

Whereas, all the proceedings to entitle to be admitted into the Alabama state hospital as a state patient have been had according to law, you are hereby required forthwith to take said person and convey him to said hospital. After executing this warrant you shall make due returns to this office. Witness my hand and seal of office this day of A. D. Judge of Probate.

Upon receiving said patient, the superintendent shall endorse upon said warrant a receipt as follows:

Form of receipt.

Alabama State Hospital.  
A. D. Received this day of the  
patient named in the within warrant.  
Superintendent.

Sec. 17. Be it further enacted, That in order of admission the indigent insane shall have precedence of the rich, and recent cases of both classes shall have precedence over those of long standing: Provided, Paying patients from other States may be received into the hospital should vacancies occur unclaimed by natives of or residents of Alabama.

Order of admission.

Sec. 18. Be it further enacted, That before any patient shall be received in the hospital as a paying patient there shall be produced to the superintendent: 1st. The treasurer's receipt for three months charge in advance; 2d. A sufficient bond, conditioned as hereinafter required; 3d. A certificate from some respectable physician setting forth: 1st. That the patient is free from any disease; 2d. The age of the patient and the concise history of the case; 3d. The duration of the disease, dating from the first symptoms; 4th. The supposed cause of the disease; 5th. Whether the disease is hereditary; 6th. Whether the patient has been subject to epilepsy; 7th. Whether the patient has ever made an attempt to commit suicide; 8th. The medical treatment pursued in the case and any circumstances known to the physician tending to illustrate the same. No other proceeding shall be necessary for the admission of paying patients. The bond before mentioned shall be substantially as follows:

Paying patients.

Know all men by these presents: That we and of the county of , in the State of Alabama, are held and firmly bound unto the Alabama Insane Hospital in the penal sum of dollars; for the payment of which we

Form of bond.

hereby bind ourselves jointly and severally. Sealed with our seals and dated this       day of       A. D.

The condition of the above obligation is as follows:

Whereas,       of the county aforesaid, is about to be admitted as a paying patient into said hospital; now, if while he shall remain therein, the undersigned shall constantly supply him with suitable clothing, and pay all the charges of said hospital against him quarterly in advance, and whenever his removal shall be required immediately remove him; and if he shall escape from the hospital, pay all reasonable charges incurred in restoring him; and if he die therein, pay all reasonable expenses incurred for his funeral; then this obligation shall be void, otherwise it shall remain in full force. Witness our hands and seals, this       day of       , A. D.       A. B. (Seal.)  
C. B. (Seal.)

Clothing

Sec. 19. Be it further enacted, That if there shall be a balance in the treasury of the hospital to the credit of a patient removed therefrom, the treasurer shall pay it to the person authorised to receive the same.

Moneys--how disposed of.

Sec. 20. Be it further enacted, That every term in this act importing the masculine gender, applied to patients, shall extend to and be applied to females as well as males.

Males and females.

Sec. 21. Be it further enacted, That the said board and president and trustees shall cause to be kept proper records of all the acts and proceedings, and proper books of accounts of all the transactions of the institution; and shall, once in each year, cause to be settled and balanced all the accounts and books of their agents and officers, and shall fully examine and investigate the acts of all subordinate agents and officers, and shall cause to be made out, and shall, by the first day of December, annually, file in the office of the secretary of state, a full and detailed report of the situation and operations of the institution, and of all moneys paid and received, with such remarks as they may think proper to make, for the information of the governor, who shall cause the same to be submitted to the general assembly at each session.

Records to be kept.

Sec. 22. Be it further enacted, That the governor, judges of the supreme court, and members of the general assembly, shall be ex officio visitors of said state hospital.

Visitors.

Sec. 23. And be it further enacted, That the joint committee raised under the first section of this act, shall recommend to the governor some qualified physician, who shall, with the approbation of the governor, be empowered, as early as practicable, to proceed according to the provision

Appointment and duty of physician.



in the 20th and 21st line of 5th section, to visit the most approved insane hospitals in the United States, in order to ascertain the best mode and principles of construction most recently adopted, the mode of internal government of such institutions, and all else that appertains to the well being of the insane; and that he be directed to report to the governor by the first day of June next.

Approved, February 6, 1852.

(No. 6.)

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AN ACT

Supplemental to an act to establish a hospital for insane persons in Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That upon the presentation of the governor specifying the amount proper to be advanced or paid to the physician appointed under the act of this session, "to establish a hospital for insane persons in Alabama," the comptroller is hereby required to issue his warrant upon the treasurer, in favor of said physician, for the amount so specified.

Pay for Physician.

Approved, February 10, 1852.

(No. 7.)

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AN ACT

For the relief of the deaf and dumb in the State of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of five thousand dollars be and hereby is appropriated; one half of said amount may be expended during the year 1852, and the other half during the year 1853, for the purpose of organising and sustaining an institution for the deaf and dumb within the limits of this State, and for which the comptroller is hereby authorised to draw his warrants on the treasury and disburse as hereinafter named in the provisions of this act.

\$5000 appropriated.

Sec. 2. Be it further enacted, That the main object of this fund shall be to afford the means and advantages of education to the indigent deaf and dumb of this State.

Object

Sec. 3. Be it further enacted, That whenever an

indigent youth between the ages of eight and twenty years shall become an applicant for the benefit of this fund, his or her parents, nearest relations or friends, shall make oath before one justice of the peace of the county in which said applicant is a resident, as to his or her necessitous condition; said affiant shall expressly affirm the inability of said applicant's family to bear the expenses of his or her education and board; and it shall be duly certified by the judge of the probate of the same county as to the facts involved; and it shall be forwarded to the governor, who shall then be empowered, if he consider the circumstances of the case warrant it, to give said applicant a certificate of admission into the institution with the privilege of board and education, together with the usual and necessary expenses connected therewith. All such certificates, with their accompanying privileges, shall be formally renewed at the end of the year, as the governor may deem best in view of the successful use of the fund.

How applications must be made.

Sec. 4. Be it further enacted, That the benefits of this fund shall be equalised as far as possible among the different counties of this State, in proportion to the number of deaf and dumb that may be known within their limits.

Fund to be equalised.

Sec. 5. Be it further enacted, That if other persons not contemplated in the provisions of the foregoing act shall desire to avail themselves of the advantages of this institution, they or their friends may make application to the governor for admission into it. If the governor deem them proper persons to enter the institution he may issue his certificate for their admission: Provided, The parties make themselves responsible in due form for the payment of the expenses of such applicants; all such proceeds shall be appropriated by the governor to the aid of the institution; but in no case shall the State be held responsible for the payment of any expense incurred by those pupils that are not its own acknowledged beneficiaries.

How other persons may be admitted.

Sec. 6. Be it further enacted, That the governor shall allow the sum of one hundred dollars for the payment per school year of the board and necessary household expenses of each pupil dependant on the State fund, and forty dollars for his tuition and its expenses as a compensation to the teacher or teachers. All such accounts shall be personally examined and approved by him before the issuing of the comptroller's order for final settlement.

Governor shall

Sec. 7. Be it further enacted, That immediately after the passage and approval of the foregoing act, it shall be the duty of the governor to take such steps as he may

Duty of governor.

deem best to employ a teacher or teachers for those deaf and dumb who may be entitled to the aid of this fund; and to make such other provisional arrangements in respect to a suitable location for the institution, its buildings and fixtures, as well as whatever else may appertain to the just application of this fund, as may best answer its intent and end.

Sec. 8. Be it further enacted, That the governor shall reserve a sufficient amount from this fund as shall enable him to meet any incidental expense, such as sickness or similar liabilities, and not suffer it to be drawn from the treasury for any other purpose.

Governor shall reserve a part of fund.

Sec. 9. Be it further enacted, That the governor shall cause due and sufficient notice to be given in each county of the State of the provisions of the foregoing act, so soon as the contemplated plan shall have been consummated, together with a detail of the ground on which its provisions may be enjoyed, and such other information as he may think calculated to promote the object of this appropriation.

Shall cause notice of this act to issue.

Sec. 10. And be it further enacted, That the governor shall report to the next legislature of this State the application of this fund and its results.

Governor shall report.

Approved, February 9, 1852.

(No. 8.)

AN ACT

To regulate charges for advertising by sheriffs and other officers of this State.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That whenever any sheriff, coroner, master in chancery, clerk, or other officer, shall be required by law to give public notice, by advertisement, in any newspaper in this State, it shall not be lawful for such officer to charge, demand or receive for such notice any other cost, or greater amount of money, than he may have contracted or agreed to pay to the publisher of such newspaper for publishing such notice; that any contract or agreement expressed or implied, made or entered into by the publisher, owner or editor, or either of them, or any agent for such newspaper, with any such officer, whereby any advantage, gain or profit is to accrue to such officer, for the publication of such notice, shall be utterly null and void; and the officer ma-

Mode and manner of advertising.

king such contract or demanding or receiving either directly or indirectly any amount whatsoever for his services in and about the publication of such notice, shall be liable to indictment, and upon conviction thereof, shall pay a fine of one hundred dollars; and no sum of money whatsoever shall be demanded for the publication of any such notice until the conductor, owner or editor of such newspaper shall have filed his affidavit in the office of the court where the proceedings to which the publication refers were instituted, stating that the sum demanded is no more than a fair charge, and the actual and lowest cost of said publication, and that he has not paid or agreed to pay to the person who engaged the printing any premium therefor; and if any owner, publisher, conductor, agent or editor of any newspaper in this behalf shall swear falsely in the premises, he, she or they shall, on conviction thereof, be liable to all the pains and penalties of perjury.

Penalties.

Sec. 2. And be it further enacted, That it shall be the duty of the officers aforesaid, to exercise a just and discreet economy in the expenses he or they may incur in regard to all such publications or notices; and it shall not be lawful for him or them to pay or contract to pay for any such services any higher or larger sum than the lowest regular price charged by any newspaper of established character and standing in the county where such publications are required to be made.

Advertising to be paid for at lowest prices.

Approved, February 9, 1852.

(No. 9.)

# AN ACT

To provide for the adoption, printing and distribution of the Code of Alabama."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the code of laws prepared and reported pursuant to the act of the last session of the general assembly is hereby received and adopted, as provided herein, and by said code, as the code of Alabama; and that the governor appoint a suitable person to make head notes to the titles, chapters, and articles of the code of Alabama, a full and complete index thereto, and to compare the printed copy with the original of such code as adopted by the general assembly.

Code adopted.

Shall be prepared for the press.

Sec. 2. Be it further enacted, That the governor secure

the copy right of such code to the State, and contract for the printing within the State, binding and delivery to the secretary of state, as early as practicable, not to exceed the first day of July next, five thousand copies of such code and index; the paper, type, printing and binding, to conform to the code of Virginia, in 1849.

Copyright to be secured, and contract for printing and binding 5000 copies.

Sec. 3. Be it further enacted, That in making such contract, the governor must require bond and security of the contractor for the execution of the work within the time and according to the provisions of the preceding section; and must also stipulate for the delivery to the secretary of state of the original of such code within such time after the printing of the same as the governor may prescribe.

Shall require bond of contractor.

Sec. 4. Be it further enacted, That when the printing of such code is completed, the person appointed under the first section of this act must certify the same to have been compared with the original, as adopted by the general assembly, and must deposit a copy so certified in the office of the secretary of state.

Certified copy to be deposited in State department.

Sec. 5. Be it further enacted, That such certificate must be printed in each copy of the code published under this act; and every copy so printed by the printers employed for that purpose, in which such certificate is inserted, may be read as evidence in all courts of justice and in all proceedings before any officer, board or body in this State.

Certificate to be printed.  
Effect.

Sec. 6. Be it further enacted, That upon the delivery within the time prescribed of the required number of copies to the secretary of state, if the execution of the work and material are in conformity to the provisions of this act, the governor must, thereupon, make proclamation and publish the same in the newspapers at the seat of government.

Printer's binding done.

Proclamation shall issue.

Sec. 7. Be it further enacted, That all the provisions of such code, except such as are expressly declared by law to become of force at a different period, are of force after the term of sixty days from the date of such proclamation.

Code shall go into effect.

Sec. 8. Be it further enacted, That upon receiving the requisite number of copies, the governor must certify to the comptroller the execution of the work, and that the contractor is entitled to his compensation therefor, which must be paid by warrant on the state treasurer.

Contractor to be paid.

Sec. 9. Be it further enacted, That the receiving of the requisite number of copies, the certificate of the governor that the contractor is entitled to payment therefor, and the payment of the compensation stipulated, are not evidence in favor of such contractor in any suit brought on his bond against him or his securities; but the State is, in such suit,

But shall be liable on bond.

entitled to recover damages for any failure to perform or any deficiency on his part in the execution of the work.

Sec. 10. Be it further enacted, That before receiving his compensation, the contractor must file in the office of secretary of state the original code, which must be certified to the governor.

Original code.

Sec. 11. Be it further enacted, That the secretary of state must retain, for the use of the executive offices and the two houses of the general assembly, three hundred copies of the code; and transmit to the department of state of the United States four copies; to the executive of each State and territory, two copies; and distribute to the comptroller, state treasurer, judges of the supreme and circuit courts, chancellors, judges of the city court of Mobile, clerk of the supreme court, attorney general, solicitors, adjutant general, quarter master general, secretary of the senate, and clerk of the house of representatives, one copy each.

Code--how disposed of and distributed.

Sec. 12. Be it further enacted, That he must also transmit to the judges of probate of each county, for such judge, each member of the general assembly, clerk of any court of record, sheriff, register in chancery, each justice of the peace, and to each commissioner of roads and revenue, not exceeding four copies to each county, within his county, one copy each.

To county officers.

Sec. 13. Be it further enacted, That the residue of such copies he may sell at not exceeding three dollars a volume, making a reasonable deduction from the price when selling a number of copies to the same person.

May be sold.

Sec. 14. Be it further enacted, That the copies distributed under this act to any other persons than members of the general assembly, belong to the office, and not to the individual; and any officer, or in case of his death, the executor or administrator of such officer, failing to deliver such copy on demand of his successor, is liable to a forfeiture of ten dollars, to be recovered by such successor before any justice of the peace of the county.

Copies distributed to attach to the office.

Sec. 15. Be it further enacted, That for the purposes of distribution under the 12th section of this act, the secretary of state must divide the State into four districts, and appoint an agent in each district to deliver to the judges of probate the copies herein provided for, such agent giving bond and security in such sum as the secretary of state directs, payable to the State, and conditioned to deliver such copies to the several judges of probate, within thirty days after they are received from the secretary of state, which bonds are to be approved by him and kept in his office.

Secretary of State to make distribution.



Sec. 16. Be it further enacted, That such agents are paid by the warrant of the comptroller on the state treasury; the amount stipulated on the certificate of the secretary of state to be given, on the production by such agent of the receipt of the several judges of probate within his district, or if the office is vacant, or such judge absent, of the receipt of the clerk of the circuit court, for the number of copies provided for the officers of his county.

Payment of  
agents.

Sec. 17. Be it further enacted, That vacancies in the appointment under the first section of this act must be supplied by the governor.

Vacancies.

Sec. 18. And be it further enacted, That on the completion of the duties assigned by this act by the person appointed under the first section, or by any one appointed to supply a vacancy, the governor must certify his compensation, not to exceed one thousand dollars, to be paid by the comptroller's warrant on the State treasury: Provided, That this act, nor any provision thereof, nor the code hereby adopted, nor any provision thereof, shall, in any manner, discharge, alter or affect any prosecution or suit commenced or pending previous to the time of this act or said code going into operation and effect.

Compensation  
of agent to su-  
perintend print-  
ing, &c.

Approved, February 5, 1852.

(No. 10.)

# AN ACT

## Supplementary to the Code.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue of each county in this State must, at a court to be held on the first Monday in May, 1852, lay off their respective counties into the necessary number of election precincts and define clearly the boundaries of the same.

Duty of com-  
missioners court  
in laying off  
election pre-  
cincts.

Sec. 2. Be it further enacted, That the place of holding elections in the precincts in which the court house is situated shall be at such court house, and the said court must at the time mentioned in the first section fix a place in each of the other precincts at which all elections therein must be held.

Place of hold-  
ing elections.

Sec. 3. Be it further enacted, That such precincts must be duly numbered and entered with their boundaries, and the places where elections are to be held therein, on the records of such court within three days after its adjournment.

Precincts shall  
be numbered.

Sec. 4. Be it further enacted, That such courts may alter the precincts so formed and change the places of holding elections therein at a court to be held on the first Monday in February, 1853, and on that day every three years thereafter, and not at any other time; but no such alteration shall take effect until the first Monday in March next thereafter.

Precincts may be changed.

Sec. 5. Be it further enacted, That all alterations made in such precincts, or changes of the places of holding elections therein, must be entered of record within three days after the adjournment of the court at which the same were made.

Changes to be entered of record.

Sec. 6. Be it further enacted, That notice of the formation of such precincts, their boundaries, numbers and places of holding elections therein, must be given by the sheriff of the county within fifteen days after the adjournment of the court at which such precincts were formed or changes made.

Notice to be given by sheriff.

Sec. 7. Be it further enacted, That such notice must contain an accurate description of each precinct by its numbers and boundaries, and must specify the place where elections are to be held therein, and if any alteration is made in the boundaries or number of any precinct or of the place where elections are to be held therein, the same must be specified in the notice, which must, within the time prescribed in the preceding section, be posted up at the court house door and at one public place in each election precinct.

Character of notice.

Sec. 8. Be it further enacted, That any judge of probate failing to record within the time, and any sheriff failing to give the notice in the manner and within the time required by this act, is guilty of a misdemeanor, and must on conviction be fined not less than one hundred dollars.

Penalty on officers for failure.

Sec. 9. Be it further enacted, That if the commissioners' court of roads and revenue of any county fail to lay off their county into election precincts and appoint places for holding elections therein, according to the provisions of this act, on the first Monday in May, 1852, a special court must be held for that purpose at any time within two months thereafter; and if no such special court is held the judge of probate must, within one week after the expiration of such two months, perform the duty of the commissioners' court of roads and revenue as required by this act, and failing so to do is guilty of a misdemeanor, and on conviction thereof must be fined not less than two hundred dollars.

Failing to lay off districts, special court may be held.

Sec. 10. Be it further enacted, That the places of holding elections and the divisions of the different counties

Beats shall remain as now until altered.



into beats shall remain as now required by law until the commissioners' court of roads and revenue or the judge of probate shall in the several counties lay off their counties into election precincts under the foregoing sections of this act.

Sec. 11. Be it further enacted, That the division of the several counties of this State into beats and the places of holding elections shall remain as now prescribed by law, as to the jurisdiction and election of justices of the peace and constables, until the first Monday of March, 1853.

Beats shall remain in some respects till March, 1853.

Sec. 12. Be it further enacted, That the persons appointed under the first section of an act entitled "an act to provide for the adoption, printing and distribution of the Code of Alabama;" must insert at the appropriate place in the code of Alabama the acts passed at the present session of the general assembly for the dividing the State into congressional districts, and into senatorial districts, and for the apportionment of representation in the house of representatives of this State among the several counties.

Duty of persons to superintend printing of the Code.

Sec. 13. And be it further enacted, That it shall further be the duty of the persons above named to prefix to the said code the "Articles of Confederation;" "The Declaration of Independence;" "The Constitution of the United States;" "The act of Congress of 26th May, 1790, of 27th April, 1804, concerning the authentication of records and laws;" "The act of Congress of 2d March, 1819, for the admission of Alabama into the Union;" "The act of Congress of 2d March, 1827, in relation to school lands;" "The act of Congress of 4th July, 1836, in relation to the five per cent. fund;" "The act of Congress of same date in relation to school reservation;" "The act of Congress of 16th August, 1842, authorising the settlement and payment of certain claims of the State of Alabama;" "The act of Congress of 26th February, 1845, in relation to the five per cent. fund;" "The act of Congress of 11th August, 1848, in relation to 16th sections;" and the Constitution of Alabama as amended.

Further duties.

Approved, February 9, 1852.

(No. 11.)

# AN ACT

Concerning poor houses and for other pruposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the

judge of probate, with the commissioners of revenue and roads in the several counties in this State, shall have full power and authority for their respective counties, to purchase and hold lands and other property for the proper erection and continuing of a poor house, and may in their discretion sell and dispose of any lands or settlement now owned or which may hereafter be acquired for the purpose of a poor house, for the better management of the poor; and upon such sale by them to make, seal and deliver good titles to the lands thus sold; and further, to make all appropriations and orders necessary and proper to the erection, continuance and proper regulation and government of the poor and poor houses in their respective counties.

Commissioner's court may purchase and hold real estate for poor house purposes.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.

(No. 12.)

#### AN ACT

To increase the number of judges on the Supreme Court bench and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the supreme court shall consist of five judges, who shall after the June term, 1852, of said court, report their own decisions; and that after said term the officer of reporter of said court be and the same is hereby abolished.

No. of judges increased

Approved, December 20, 1851.

(No. 13.)

#### AN ACT

To require the assistant commissioners, or clerks of the bank of this State and branches, to make reports to the comptroller in respect to the 16th section fund,

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners or clerks of the bank of the State of Alabama, and the several branch banks, shall report on or before the last day of August next, to the comptroller of public accounts, a list of notes given for the pur-

Duty of assistant commis'ner.

chase of a sixteenth section, or any part thereof, which they have respectively placed in the hands of agent or attorney at law for collection, and the proceeds of which have not been paid into either of said banks or otherwise accounted for. Said report shall state to what agent or attorney, and when said notes were given out for collection, and whether such agent or attorney has been authorised to substitute another agent or attorney; and whether by such primary or substituted agent or attorney losses have occurred, either by neglect or wrongfully withholding money collected; and the comptroller shall furnish to the attorney general or solicitor of the proper circuit a memoranda, shewing all such neglects or defalcations in his circuit on which the attorney general or solicitor shall immediately institute suit, unless the matter is otherwise settled on terms more beneficial to the State or the township interested.

Duty of Comptroller of P.A.

Approved, February 9, 1852.

(No. 14.)

#### AN ACT

To authorise the extension of debts now due, or to become due, to the different sixteenth section funds in this State.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the commissioners of sixteenth sections in this State, where any sixteenth section or any part thereof may have been sold and not paid for, to extend the time of payment of such sums of money as may be due, or to become due, in the next two years, for the term of two years from the time of such renewal or extension, upon the makers of the notes of such persons as desire such extension giving new bonds, and such additional or new securities as the commissioners may require for the safety and final payment of the principal and interest at the rate of eight per cent, per annum.

Debts may be extended.

Sec. 2. And be it further enacted, That any commissioner having on hand money belonging to the sixteenth section of which he is commissioner, may, at his discretion, loan out the same on good security, at not less than eight per cent, a year, and the interest so made shall be annually collected and re-invested as herein provided. Such commissioner must be liable for the final payment of principal and interest so in his hands and the increase thereof.

Money in hands of comm'rs may be loaned.

Approved, February 9, 1852.

(No. 15.)

## AN ACT

To provide for taking the sense of the voters of the several townships of this State in regard to the consolidation of the sixteenth section fund.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all of the qualified electors within the limits of any township or fractional township in this State, on the third Monday of August, in the year of our Lord one thousand eight hundred and fifty-three, shall be entitled to vote within the township or fractional township in which such person may reside, and the voters mentioned in this section shall be summoned in the manner hereinafter provided, to vote whether the sixteenth section fund belonging to the several townships in this State shall be consolidated or not.

Election, when held and for what.

Sec. 2. Be it further enacted, That it shall be and it is hereby made the duty of the judge of the probate court of the several counties of this State, respectively, on or before the first day of June, in the year 1853, to appoint three persons, being house holders, (and who are not school commissioners) living within the bounds of each township and fractional township within their respective counties, to act as managers of the election herein provided for in their respective townships; and it is hereby made the duty of such judge of probate to enter in a book to be provided for that purpose, the names of such managers so appointed, distinguishing the township and range for which each board of managers may be appointed; and it is further made the duty of said probate judge to issue a notice to each board of managers so appointed, and deliver into the hands of the sheriff of the proper county the said notices, on or before the second Monday in June next after such appointment.

Duty of probate judge in appointing managers.

Sec. 3. Be it further enacted, That it shall be the duty of the sheriff of each county in this State, or deputy sheriff, to whose hands such notices may come, to execute the same by personal notice or by leaving a copy thereof at the usual place of residence of such person as he may not be able to see personally by or before the first Monday in August after such notices shall come to his hands, and to make return thereof to the office of the judge of the probate court, as other notices are returned, which return shall be filed in the office of said judge.

Duty of sheriff in serving notices.

Sec. 4. Be it further enacted, That it shall be and is hereby declared to be the duty of the persons appointed

Duty of managers in advertising elections.

managers under the provisions of this act, or a majority of them, to advertise, for ten days, at three places in their township, that they will open and hold an election at some convenient place or house, to be designated in each advertisement, on the third Monday of August aforesaid, for the purpose of taking the sense of the voters upon the question of consolidating the sixteenth section school fund of the State of Alabama.

Sec. 5. Be it further enacted, That the said managers before proceeding to open and hold said election, shall take an oath before some justice of the peace, well and faithfully to discharge their duties as managers of said election without partiality, and true return make of the same according to law and the provisions of this act; and it is hereby made their duty to open the said election at the time and place designated for that purpose at ten o'clock in the forenoon and close the same at four o'clock in the afternoon; they shall keep a list of all the persons voting in said election as qualified under the first section of this act; and as each voter presents himself, the question shall be propounded to him by the managers, Are you in favor of consolidating the sixteenth section school fund? and his answer shall be written opposite his name with the word "consolidation," or the words "no consolidation," as he may vote.

Duty in holding elections.

Sec. 6. Be it further enacted, That upon closing the said election the managers shall proceed to count up the number of votes cast for "consolidation," and those cast "no consolidation," and certify the same under their hands; and they shall within five days from said day of election deliver or cause to be delivered to the judge of probate the certificate aforesaid and list of votes kept by them.

Duty in making returns of elections.

Sec. 7. Be it further enacted, That the judge of probate shall register in the same book in which the appointment of managers of the elections are required in this act to be registered, the returns of all the elections held in the proper county under the provisions of this act, distinguishing each township or fractional township and the votes of each for and against the consolidation of the school fund, and file the original returns and lists of votes in his office; and it is furthermore made his duty to certify the result of the elections as returned from the several townships, distinguishing in the same the different townships and the result in each under the seal of his office, and forward the same directed to the secretary of state of Alabama, by the second Monday in September next after the holding of the said

Returns shall be registered by probate judge.

And condensed returns made to sec. of state.

election, and to take from the post master where such return is mailed a certificate of the fact.

Sec. 8. Be it further enacted, That it shall be the duty of the grand jury in any county in this State where any such elections may be held, at the first term of the circuit court held after the second Monday in September, 1853, to examine the register of appointments of managers required in this act to be made; the return of the sheriff of notice served on such managers; the return of elections held by them; the entry or registration of such returns by the judge of probate, and the certificate of the post master of mailing the return; and the said grand jury shall report to the solicitor any neglect of any of the duties imposed by this act upon the judge of probate, or the sheriff or any of the managers of election; and if it shall appear that any judge of probate, sheriff or manager of election has neglected the discharge of any of the duties imposed by this act, any such judge of probate, sheriff or manager shall, upon conviction, be fined not less than fifty nor more than three hundred dollars, at the discretion of the jury trying the case.

Penalty on person's failing to do duties required.

Sec. 9. Be it further enacted, That when from any cause an election shall not be held in any township or fractional township on the day mentioned in this act, it is hereby made the duty of the judge of probate, as soon as may be, to issue notice of appointment as provided in this act, requiring, them after giving ten day's notice, to open and hold an election in their township, and such election shall be conducted in all respects and returns thereof made as is herein provided for elections to be held on the third Monday in August, 1853.

Sec. 10. And be it further enacted, That the secretary of state shall prepare correct tabular statements of all returns received at his office and lay the same before the two houses of the next general assembly, during the first week of the session, and file the original returns in his office: Provided, however, That nothing in this act contained shall be so construed as to authorise any subsequent legislature to consolidate or put into a common fund the amount that may belong to any township that shall vote against consolidation.

Duty of secretary of state.

Proviso.

Approved, February 10, 1852.



(No. 16.)

## AN ACT

To authorise school commissioners to sue and be sued in certain cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the school commissioners in and for the several townships of the State of Alabama may, in and by the name of school commissioners of the particular township for which they are appointed, bring, maintain, prosecute and defend all suits in any of the courts of the State of Alabama having jurisdiction of the subject matter which appertains to or concerns the sixteenth section in their respective townships of such school commissioners, or any part thereof, or the rents, profits or possession of the same.

Approved, February 10, 1852.

May sue and be Sued.

(No. 17.)

## AN ACT

Authorising the issuance of certificates of stock to the commissioners of sixteenth sections in certain cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That whenever it shall appear to the satisfaction of the commissioner and trustee to settle the affairs of the bank of the State of Alabama and its several branches, that by the negligence of said bank or either of its branches, or any attorney or agent of the same, any money or moneys belonging to any township in this State has been collected from the purchaser of the sixteenth sections thereof and not paid into said bank or branch bank, it shall be and is hereby made his duty to report the same to the comptroller of public accounts; whereupon a certificate of State stock for the amount shall issue to the commissioners of the sixteenth section of said township, in the same manner as though said money had been actually paid into said bank or branch bank.

Commissioner and trustee shall pay over money.

Sec. 2. Be it further enacted, That the production of a transcript of the record of any suit, instituted by said bank or branch bank, to recover from the purchaser of the sixteenth section the purchase money for the same, shewing the rendition of judgment, the issuance of execution, and that the money was collected by any sheriff under said process, or that the money was paid to any attorney of said

Proof of payment by debtor.

bank or branch bank authorised to receive the same, shall be deemed sufficient proof within the meaning of the first section of this act.

Sec. 3. And be it further enacted, That whenever said commissioner shall be satisfied by like proof that the purchase money for any sixteenth section, or any part thereof, has actually been paid by the purchaser to the sheriff of said State, or to any attorney of said bank or branch bank authorised to receive the same, and has not been accounted for to said township, he is hereby required to pay over to the commissioners of such township all the interest that may have accrued upon any sum or sums so collected as aforesaid at the rate of six per cent. per annum, in the same manner as though said money had actually been paid into said bank or branch bank by said sheriff, constable or attorney.

When paid to sheriff.

Approved, February 7, 1852.

(No. 18.)

#### AN ACT

To continue the office of commissioner and trustee to settle the affairs of the State bank and branches, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Francis S. Lyon be and he is hereby continued as commissioner and trustee to settle the affairs of the State bank and branches for two years, and until his successor shall be qualified, next after the expiration of his present term of service, as prescribed by the act of the 23d of January, 1850, entitled "an act for the continuation of a commissioner and trustee to settle the remaining affairs of the State bank and branches, and for other purposes."

F.S. Lyon continued as commissioner and trustee.

Sec. 2. Be it further enacted, That said act of the 23d of January, 1850, be and the same is hereby revived and continued in full force and effect, and all former acts or parts of acts revived thereby be and they are hereby revived and continued in full force and effect in all their provisions for and during the further continuance of the office of commissioner and trustee as herein above provided.

Certain acts revived.

Sec. 3. Be it further enacted, That said commissioner and trustee be and he is hereby authorised in his discretion to extend from time to time any debt due the State bank and branches upon such terms as he may prescribe, whenever in his opinion such extension would be more beneficial to the State than the collection of the money.



Sec. 4. Be it further enacted, That the office of bank attorney be and the same is hereby abolished; and henceforward whenever it shall be necessary to employ the services of an attorney, it shall be the duty of the commissioner and trustee to engage the services of one or more; at such compensation as he may think proper: Provided, That the sum paid for such services at the State bank of any of its branches shall not exceed the sum heretofore allowed by law to an attorney for said bank or branch bank.

Office of bank att'y abolished. Attorney may be employed.

Proviso.

Sec. 5. Be it further enacted, That in the sale or compromise of any debt or judgment held by the State bank or any of the branches, by the commissioner and trustee, the bank or branch bank shall in no case be liable for any cost accruing after such sale or transfer in any suits or other proceedings to enforce the collection of the same or otherwise accruing; and that before any such sale or transfer shall take effect, all cost accrued previous thereto shall be paid by the transferee.

Of bad and doubtful debts.

Sec. 6. Be it further enacted, That for the collection of bad and doubtful debts owing to the State bank or either of the branches by parties out of the State, the commissioner may, in his discretion, allow not exceeding fifty per cent. on the amount collected and paid into bank; and for the collection of bad and doubtful debts from parties within the State, he may in like manner allow not exceeding twenty per cent.: Provided, That all costs and expenses incurred in collection or attempt at collection of any bad or doubtful debt under this section shall be paid by the attorney or party undertaking such collection.

Compensation for collecting bad and doubtful debts.

Proviso.

Sec. 7. Be it further enacted, That in all cases where any sheriff or coroner who may hereafter receive any execution in favor of the bank of the State of Alabama or any of its branches, shall fail or refuse to return the same to the court to which such execution may be returnable, on the return day thereof, it shall and may be lawful for such bank or branch bank, upon one day's notice to such delinquent sheriff or coroner, to recover of such sheriff or coroner, or his sureties in office, the amount of principal, interest and all cost due on such execution in any court having jurisdiction thereof, either in the county where the judgment may have been rendered or in the county where such delinquent sheriff or coroner may reside, at the option of the plaintiff.

Rem'dy against delinquent sheriff and coroner.

Sec. 8. And be it further enacted, That the commissioner and trustee be and he is hereby required to sell and dispose of at either public or private sale, all the real estate

Real estate belonging to b'nk to be sold.

owned by the State bank and branches within the term of his office as defined by this act: Provided, however, That said trustee may use his discretion in the sale of the banking houses.

Approved, February 3, 1852.

(No. 19.)

# AN ACT

To provide for cancelling and registering the State bonds when redeemed.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all bonds of the State heretofore redeemed by the commissioner and trustee of the State bank and branches shall, after being fully cancelled, be deposited in the office of the treasurer of the State, who shall register them in a book kept for that purpose, in such manner as to show a full and complete identification by date, number, amount, rate of interest, time and place of payment, when and by what bank issued; which registry shall be carefully preserved.

Bonds redeem'd shall be cancelled and registered.

Sec. 2. And be it further enacted, That all bonds, if any, on hand at either of the banks, redeemed prior to the \_\_\_\_\_, and all bonds hereafter redeemed by the commissioner, shall be registered as provided for in the preceding section.

Bonds heretofore redeemed.

Approved, February 10, 1852.

(No. 20.)

# AN ACT

To renew and extend the time of payment of certain State bonds therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of the State of Alabama, the state treasurer, and the comptroller of public accounts, be and they are hereby authorised to issue State bonds to be substituted for the extension of the State bonds heretofore issued by the State, payable in eighteen hundred and fifty-two, which said bonds to be issued and substituted as aforesaid shall be payable at any time not beyond the first day of May, eighteen hundred and seventy-two, renewable at the pleasure of the State.

By whom extended.

To what time.

Sec. 2. Be it further enacted, That the bonds to be is-

sued as aforesaid shall be made payable to the commissioner and trustee appointed by the State of Alabama to regulate the affairs of the State bank and branches, and shall be transferred by him to the holders of the State bonds due in eighteen hundred and fifty-two as aforesaid, in lieu of the bonds maturing in eighteen hundred and fifty-two as aforesaid, the interest thereon to be paid at such place or places as the said commissioner and trustee and the holders of said bonds may agree.

Bonds--how payable and transferred.

Sec. 3. And be it further enacted, That the said commissioner and trustee be and he is hereby authorised and required to prepare and sign the necessary coupons for the extension of the said bonds due in eighteen hundred and fifty-two, corresponding with each other.

Coupons to be prepared.

Approved, February 9, 1852.

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AN ACT

(No. 21.)

To authorise the sale of the stock held by the State in the Bank of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened; That the commissioner and trustee to settle the affairs of the bank of the State of Alabama and its branches be and he is hereby authorised and empowered to sell and transfer the stock now held by the State of Alabama in the bank of Mobile for the highest and best price he can obtain for the same: Provided, In making such sale, the six hundred thousand dollars of five per cent. sterling bonds issued by the State to obtain said stock be taken up: And provided further, That said sale be so made as to save the State from any loss whatever on account of said bonds.

Commissioner and trustee may sell stock.

Proviso.

Proviso.

Sec 2. And be it further enacted, That in the event the sale contemplated by the first section of this act shall be made, then and in that event the capital stock of the bank of Mobile, be and the same is hereby increased from one million five hundred thousand dollars, as now fixed by law, to the sum of two millions five hundred thousand dollars, in shares of one hundred dollars each as heretofore, and that the two-fifths of the capital stock of said bank be reserved to the State of Alabama, subject to be taken by the State at any time during the continuance of the charter of said bank.

Capital stock increased.

2-5ths reserved to the State.

Approved, February 4, 1852.

(No. 22.)

## AN ACT

To provide a keeper for the State house at Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the private secretary of the governor is hereby constituted keeper of the State house in Montgomery; and he is hereby required to perform all the duties appertaining to said office as hereinafter prescribed.

Governor's private secretary shall keep the capitol.

Sec. 2. Be it further enacted, That it shall be the duty of said keeper to take care of and preserve the State capitol, grounds, enclosures, library, furniture, and all other property of the State on the premises, under the general supervision and control of the governor.

Sec. 3. Be it further enacted, That it shall be the duty of said keeper to have well cleaned and ventilated during the recess of the general assembly all the apartments that are not regularly used and occupied, also the public entries and walls and stairs in each story. He shall also collect and arrange in a proper manner the State library, public documents, stationery, and all the furniture not necessary to be used by the officers of the state house; and it shall also be his duty, once in two years, to make out a full schedule of all books, documents, furniture, and other property of the State under his care, which shall be filed in the executive office, and recorded in a well bound book to be provided by the governor.

His duty further.

Sec. 4. And be it further enacted, That said keeper shall be entitled to and receive for his services the sum of one hundred and fifty dollars per annum, to be paid out of any money in the treasury not otherwise appropriated, and the comptroller shall draw his warrant on the treasury for the same.

His compensation.

Approved, January 9, 1852.

(No. 23.)

## AN ACT

To provide for the comfort of citizens visiting the State Capitol.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the secretary of state be and he is hereby authorised and required, at as early a day as practicable, to contract with the lowest bidder for the erection

Duty of secretary of state.

of suitable and comfortable seats, to be placed in the galleries of the hall and the senate chamber, consisting of not less than two rows, the full length of said galleries; each seat to be at least ten feet in length, and so arranged as to afford convenient pass-ways between them; the front row to be cushioned with substantial and durable materials; the back row to be raised six inches higher than the front row, and to be furnished with a footstool made of plank the full length of each of said seats on said back row; and the said secretary shall also contract for the lining of the banistering of said galleries with baize; and the said secretary shall also contract as aforesaid for three dozen chairs, to be placed in the lobby of the hall, for the use and convenience of spectators: Provided, The whole cost shall not exceed the sum of three hundred and fifty dollars.

Approved, December 10, 1851.

(No. 24.)

#### AN ACT

Amendatory of the acts of 1807 and 1843, in relation to the small pox and other contagious diseases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act of February, 1807, entitled "An act to prevent the importation and spreading of the small pox and other contagious diseases," and the act of January 1843, entitled "an act to amend an act to amend the law in relation to small pox and other contagious diseases" are hereby repealed, so far as they make it the duty of the governor to take measures to prevent the communication of the diseases referred to and for the aid and comfort of the people of this State who may be thus afflicted.

How far repealed.

Sec. 2. And be it further enacted, That hereafter it shall be the duty of the judge of the court of probate and the commissioners of revenue and roads, in their respective counties, to take the measures contemplated by the acts aforesaid for the purposes therein stated, whenever they shall know or be informed of the existence of the small pox or other contagious disorders; and all the expenses incident to such sanitary and benevolent measures shall be paid by order of the judge and commissioners on the county treasurer: Provided, however, That all persons being able receiving the benefit of the provisions of this act, shall reimburse to the county treasurer the expenditures made for their benefit.

Duty of commissioners' court.

Proviso.

Approved, February 10, 1852.

(No. 25.)

## AN ACT

To provide for the preservation of the balances intended for the adjustment of standard weights and measures.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor be and he is hereby authorised and required to have erected, at a cost not to exceed one thousand dollars, a suitable fire-proof building for the reception and safe keeping of the set of balances intended for the adjustment of standard weights and measures furnished to this State by act of Congress; and the comptroller is hereby authorised, upon the order of the governor, to draw his warrant upon the treasurer for such sums as may be expended under the provisions of this act.

Governor shall cause building to be erected.

Sec. 2. And be it further enacted, That said building shall be erected on or near the university premises at Tuscaloosa, and shall be under the control or supervision of some member of the faculty of said university as soon as said balances are received and adjusted in the same: Provided, however, There shall be no charge upon the state treasury in compensation for any services which may be rendered by any member of said faculty under the provisions of this act in keeping and preserving said balances in good order.

Shall be at or near the university.

Approved, February 9, 1852.

(No. 26.)

## AN ACT

In respect to the books, maps and field notes of the late surveyor general's office for the State of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the books, maps and field notes of the late surveyor general of the United States for the State of Alabama, deposited in the office of the secretary of state, be and the same are hereby declared public archives of this State; and that the secretary of state of this State be and he is hereby authorised to give, upon the application of any person, certified copies from the same, which copies certified shall be received and taken in evidence in any of the courts of this State.

Certified copies may be given by secretary of state.

Approved, January 12, 1852.



(No. 27.)

## AN ACT

To amend the third section of an act entitled an act to reform the evils of local legislation, approved March 3, 1848.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be the duty of the several judges of probate in this State to record in a separate book all such rules or articles of agreement as may be deposited in their respective offices by persons who have associated themselves for purposes of education or any other contemplated by said act.

Duty of probate judge.

Sec. 2. Be it further enacted, That said judges of probate shall, whenever required, give a certified transcript of such record, which shall be evidence in all cases of the fact of incorporation and the terms thereof as though said corporation had been created by special act of the legislature; and they shall receive such fees for recording such articles of agreement and for furnishing transcripts thereof as are now allowed them for recording deeds.

Shall give certified transcript

Sec. 3. And be it further enacted, That said book shall be lettered "corporation records," and shall be indexed by the corporate name of each company or association; and it is hereby made the duty of every association or company of persons, under the provisions of the act to which this is an amendment, to deposite their rules or articles of agreement for record in the county where their business is to be carried on.

Record book shall be lettered

Approved, January 30, 1852.

(No. 28.)

## AN ACT

To change the fees of Solicitors in certain cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the attorney general and solicitors' fee on each conviction for playing at cards or dice shall be twenty dollars for each conviction; for a violation of the revenue law of the State, twenty dollars for each conviction; for an assault or assault and battery, where a weapon of any description is proved to have been exhibited by the party charged, a fee of ten dollars: Provided, The fee for an assault with intent to murder

Fees.

Proviso.

shall be as heretofore provided by law; for each conviction for living in adultery or fornication, or for cruel or unusual punishment of a slave, a fee of twenty-five dollars; all which fees shall be paid by the party convicted as now provided by law, that for other offences the fees shall be the same as now provided.

Approved, February 9, 1852.

(No. 29.)

# AN ACT

To prevent the obstruction of private or public roads by the falling of the telegraphic wires.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is hereby made the duty of every telegraph company, at each and every point that the wires of any line of telegraph may cross any private or public road, to erect substantial, durable, and permanent posts or piers, to prevent the falling of the wires so as to obstruct or interfere with the travel on such road; and upon failing to erect posts or piers as herein prescribed, and upon the falling of any telegraphic wires so as to obstruct or interfere with the travel along any private or public road, it shall be the duty of any justice of the peace in the county, upon complaint that the wires of any telegraph line have fallen across or along any road, private or public, to issue notice to any officer or agent of said company to be found within the county, to appear before him at such time, not short of ten day's notice, as he may appoint; and upon proof that the wires are down, or have been down for one day, he shall enter a fine not less than ten nor more than fifty dollars, for every day the wires are permitted to remain down.

Duty of tele-  
graphic comp'y

Liability.

Sec. 2. And be it further enacted, That if no officer or agent of the company is found in the county, then and in that case notice posted at two or more places near the line of telegraph in the neighborhood of where the wires have fallen, citing the company for five days to appear before a justice of the peace, shall be deemed and held sufficient notice; and if the company shall not defend by some agent or officer, fine may be entered by default; and if the company shall fail or refuse, for the space of sixty days, to pay any fine imposed under this act, the said telegraphic line shall be deemed a public nuisance, and upon due notice, the same shall be subject to be abated as such by proceedings before

Proceedings  
against comp'y

the circuit court of the county in which said wires shall be permitted to continue down as aforesaid, in the same manner as nuisances are by law abated.

Approved, February 10, 1852.

(No. 30.)

# AN ACT

To define the liability of common carriers and ware house proprietors for injuries to goods, wares, merchandise, cotton, &c.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, all ware house proprietors, common carriers, by land or water, and other person or persons engaged in the safe-keeping or transportation of any goods, wares, merchandise, lumber, cotton, or other produce, for hire or reward, shall be and they and each of them are hereby required, upon receipt of any such goods, wares, merchandise, lumber, cotton, or other produce, for safe-keeping or transportation, to give a receipt or bill of lading therefor, specifying the order in which such goods, wares, merchandise, lumber, cotton, or other produce, may be in at the time, including the bagging and rope upon cotton bales; and if the articles received are in good order, so to express the same, and if not, so to state; and in all cases to deliver the same in the order in which the article or articles may be in at the time of reception; and upon failure to express the order of the article at the time of such reception, the same shall be taken and held to have been in good order when received, and the firm, or person, or company, so having the same in charge, shall be bound to deliver the same in good order; and upon failure, such ware house or steam boat proprietor, or other person or persons engaged in such safe-keeping or transportation, shall be liable and subject to respond in damages to the owner or owners to the extent of the injury such owner or owners may have sustained because of the injuries either to the cotton, or bagging, or rope, by exposure to the weather, or by stock, or otherwise: Provided, That nothing herein contained shall be so construed as to alter, modify or enlarge the liability of ware house or steam boat proprietors or other persons engaged in the safe-keeping or transportation of the articles herein before specified when the same shall be wholly lost or destroyed.

Bills of lading shall specify the order in which goods, &c. are received.

Effect of not specifying.

Approved, February 10, 1852.

(No. 31.)

## AN ACT

To regulate the sale of cotton by commission merchants.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, all cotton sold by commission merchants to brokers or buyers shall not be considered as delivered and the ownership given up, until the same shall be fully paid for; any order for the cotton, law, custom or usage to the contrary notwithstanding.

Delivery of cotton by commission merchants.

Sec. 2. And be it further enacted, That any cotton broker engaged in the business of buying cotton, either on his or their own account, or for others, who shall buy, or engage to buy, cotton from a planter or commission merchant, and shall fail or refuse to pay for the same at the time agreed to, and shall make way with, or so dispose of any cotton purchased and not paid for, shall be deemed guilty of fraud and embezzlement, and shall be liable to be imprisoned, on conviction, in the penitentiary not less than one nor more than five years, at the discretion of the jury trying the case.

Penalty on cotton broker for fraud.

Approved, February 10, 1852.

(No. 32.)

## AN ACT

To repeal in part an act to provide for the incorporation of companies to construct macadamised, graded, wooden rail roads or plank roads, approved 12th February, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all those portions of the act "to provide for the incorporation of companies to construct macadamised, graded, wooden rail roads or plank roads," approved 12th of February, A. D. 1850, hereinafter specified, to-wit: "that portion of the first section which reads thus, to-wit: "the time the same is proposed to continue, which shall not exceed fifty years from the date of said articles;" those portions of the fifteenth section which read thus, to-wit: "or for the property of such person at the gate nearest his or her residence;" also, "or from any one residing within one mile of the gate at which toll is demanded;" together with the twenty-fifth section of said act, be and the same are hereby repealed.

Certain portions repealed.

Approved, February 9, 1852.

(No. 33.)

## AN ACT

Accepting of the donation of lands made by the Congress of the United States to aid in the construction of a rail road from the city of Mobile to the mouth of the Ohio river.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the lands within this State which, under the said act of Congress, have been or may be hereafter entered in conformity with its provisions, shall vest in full and complete title in the "Mobile and Ohio rail road company," for the purposes set forth in said act of Congress, as soon as the said company shall execute and deliver to the governor of the State a sufficient bond faithfully to use the said lands for the purposes of its donation, and to abide by and perform the provisions and conditions in the said act contained.

Title vested in  
M. and O. R. R.  
Co.

Approved, December 1, 1851.

(No. 34.)

## AN ACT

To define and regulate the liability of rail road companies.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That whenever any live stock or cattle of any description shall be killed or injured by the cars or locomotives of any rail road in this State, the corporation owning such rail road shall be liable to pay to the owner or owners the value thereof if killed, or the damage thereto if injured.

Liability for  
killing stock.

Sec. 2. Be it further enacted, That when the value of the stock or cattle so killed, or the damage thereto, if injured, is fifteen dollars or less, the owner or his agent may apply to any justice of the peace of the county in which the injury was done by a written complaint, setting out the number and character of the stock or cattle so injured or killed, the time when, and the place when the injury occurred, and the name of the owner or owners thereof; and the justice shall then mail to the president of the corporation complained of a letter containing a copy of such statement or complaint, and also the time fixed by him, at least ten days from mailing the said letter, for hearing the said complaint before him and the place where the said complaint shall be tried.

Proceedings for  
recovery.

Sec. 3. Be it further enacted, That at the trial of the

complaint, the owner or his agent may prove the destruction or injury to the said stock or cattle by his own oath or otherwise; and the justice of the peace shall then ascertain the damage by the oath of at least one witness, and shall enter up a judgment against the corporation complained of. If a judgment is rendered against the corporation, it shall then be the duty of the justice of the peace to notify the president of the corporation of the same by letter mailed to him; and if the money is not paid within ten days thereafter, together with one dollar to the justice of the peace, execution may then issue on the judgment.

Proof--how made.

Sec. 4. Be it further enacted, That when the value of the stock or cattle killed; or the damage to it, if injured, is more than fifteen dollars, the owner or owners may sue the corporation in the circuit court of the county in which the injury was done, and process shall be executed on the president of the corporation as in other cases.

When proceedings shall be in circuit court.

Sec. 5. And be it further enacted, That the Montgomery and West Point rail road company shall hereafter pay county taxes on one-third of the tax levied and assessed by the State on it to the county of Montgomery; one-third to the county of Macon; one-third to the county of Chambers, in the proportions assessed by the said counties in their general county levy.

Payment of Co. tax by Montg'y and W. P. R. R.

Approved, February 10, 1852.

(No. 35.)

# AN ACT

To provide for the incorporation of steam ship companies.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That any two or more persons who may design to form a line of steam ships or other water crafts to navigate the sea to and from the port of Mobile to any other port or ports of the United States, or of any foreign country, may become incorporated and receive and enjoy all the benefits and privileges of a charter, to the same extent as if it were granted by a specific act of the general assembly, who shall comply with the rules and conditions hereinafter stated:

How Co. may be formed.

First. Such persons as may design to establish any such line shall, by a declaration in writing, state the object of the company, the name to be assumed by the company, the amount of capital stock to be raised, the number of shares into which said stock is to be divided, and the persons who are share holders therein: Provided, The capital stock shall

Rules and conditions--1st.



in no case be less than \$100,000, nor more than \$800,000; and the shares of the value of each not less than \$100, nor more than \$1,000; the said declaration shall be subscribed by contributors holding at least one-third of the stock, or by their duly authorised agent or agents, and shall be filed in the office of the secretary of state. Second. The<sup>2d</sup>. said declaration before being filed shall be verified by the oath or affirmation of at least two of said contributors before any judge of probate, or any judge of the circuit court; upon the filing of said declaration as aforesaid, and upon certificate of the fact that one-third of the proposed capital stock has been actually paid in cash into one of the banks doing business in the city of Mobile, to the credit of the company, or of some person designated in their said written declaration to act as trustee for the company, which fact may be certified by the cashier of such bank with the seal thereof, it shall be the duty of the governor of the State to issue to said company letters patent under the great seal of the State, declaring said company a body politic and corporate under the name and style stated in the aforesaid declaration in writing. Third. Each of said<sup>3d</sup>. companies formed under this act shall have for its officers a president and treasurer, and in addition thereto such other officers and agents as its business may require, and may also have a board of directors or managers of not more than ten nor less than five; said officers shall be appointed in such manner and for such time as said company by its by-laws may provide. Fourth. After the issual of letters pa-<sup>4th</sup>. tent as aforesaid, whatever money may stand in any bank to the credit of the company, or the trustee thereof, shall be subject to the check or draft of the treasurer, countersigned by the president, or to the draft of such other officer as the by-laws of the company may direct.

Sec. 2. Be it further enacted, That each and every company complying with the requisitions hereinbefore stated shall be deemed and taken as a body politic and corporate by the name, style and title adopted in their written declaration aforesaid, and as such shall have perpetual succession and have all the rights, privileges and immunities and be liable to all the obligations of a body corporate; and the said corporators, or those who may become associated with them, or their successors, shall have full power to fill all subscriptions to the capital stock for the amount named in their said declaration in writing (and to the amount of \$800,000, provided they file a new declaration to that effect in the office of the secretary of state,) for the

Co'y complying  
with conditions  
vested with cer-  
tain powers de-  
fined.

purpose of equipping, purchasing, chartering and owning or selling vessels to be propelled in whole or in part by the power and aid of steam or other expansive fluid or gas, or any other water craft to be run and propelled in navigating the Atlantic or other oceans and the gulf of Mexico, to and from any ports and places in their said declaration in writing named, as provided in the first section of this act, and also purchasing, owning, selling, chartering and navigating such auxilliary vessels as may be required; to provide fuel or other necessities for the company; and also to erect, purchase, hold and convey or lease such buildings or real estate as may be necessary to the efficient management of the business of the company; the said companies to be organised in such manner as they see fit, not inconsistent with this act or the laws of the land, and their business to be managed in such manner as shall be directed by the by-laws of such company not inconsistent herewith or with the laws of the land: Provided, That nothing in this act shall be construed to give any association organised hereunder banking privileges, or any powers not proper and necessary to the business of navigating and managing a line of steam ships and other water crafts for the carriage of freight and passengers.

Proviso.

Sec. 3. Be it further enacted, That the president of any association formed under this act, on the request in writing of any associates or corporators in his company owning stock therein to the value of one-third of the capital stock paid in, shall call a special meeting of the share holders of such company, giving twenty days' notice and stating specifically the object of such meeting; and the objects stated in such notices and no other shall be acted upon at such meeting; and it shall be the duty of the treasurer or other accounting officer of the company, on the written request of any share holders owning stock to the amount of one-third of the capital stock paid in, to furnish in writing a statement of the company's accounts and the condition of its pecuniary affairs.

Special meetings may be held.

Sec. 4. And be it further enacted, That in case from any cause it becomes necessary to wind up the affairs of any such company, and an amicable arrangement cannot be made among the parties interested, it shall be the duty of the chancellor of the southern chancery division, upon application by bill of any party or parties interested to the extent of twenty-five thousand dollars, to appoint three suitable persons commissioners, who shall, if so required, give bond for the faithful performance of the trust, who

How affairs of company may be wound up.

shall take possession of the assets and property of the company, and as speedily as practicable under the direction of the chancellor wind up and settle the affairs of the company and make equitable distribution among the parties in interest.

Approved, February 9, 1852.

(No. 36.)

# AN ACT

To compensate the agent of the State of Alabama to locate lands in lieu of 16th sections in the Chickasaw purchase.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the agent who may hereafter be appointed by his excellency the governor under the provisions of an act entitled "and act to provide for the selection of certain lands in lieu of the sixteenth sections in the Chicksaw purchase in Alabama," approved 4th March, 1848, shall be entitled to receive for each day he shall be employed in locating said lands, four dollars, to be paid upon the certificate of the governor that said lands have been located and secured to this State agreeably to the terms prescribed by the congress of the United States.

Allowed \$4 per

Sec. 2. And be it further enacted, That said agent must present his account to the governor for each day's service, properly authenticated; and the governor shall be fully satisfied that the services have been rendered before he shall issue his certificate.

Restriction.

Approved, February 10, 1852.

(No. 37.)

# AN ACT

To authorise the commissioners' courts of roads and revenue to levy taxes on ten pin alleys.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' courts of roads and revenue in the several counties of this State be and they are hereby authorised to levy such taxes as they may think proper upon all ten pin alleys in their respective counties for county purposes: Provided, however, That this act shall not apply to any watering place in this State.

Powers of commissioner's court.

Proviso.

Approved, January 30, 1852.

(No. 38.)

## AN ACT

To increase the pay of jailors.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the jailors in the several counties in this State shall have and receive for victualing each white prisoner in custody, thirty cents per diem instead of the compensation now provided by law.

Allowed 30c a day.

Sec. 2. And be it further enacted, That from henceforth the accounts of jailors for victualing and keeping prisoners who are insolvent or unable to pay shall be due and payable at each regular term of the circuit court in the county of their residence, whether the cause has been tried or continued; and when it shall be made to appear to the satisfaction of the presiding judge that a prisoner is insolvent and the expenses are likely to become a charge upon the State, such judge shall certify in the same manner as if a trial and conviction or acquittal had been had: Provided, That upon conviction the whole amount of cost shall be taxed against the prisoner, for which execution may issue against any property such prisoner may then have or thereafter acquire.

Certain accounts of jailors --when payable.

Proviso.

Approved, January 30, 1852.

(No. 39.)

## AN ACT

To increase the salary of the state treasurer.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the 27th day of January, 1852, the state treasurer shall be entitled to receive for his salary the sum of fifteen hundred dollars annually, payable quarterly upon the comptroller's warrant for the same.

Increased to \$1,500.

Approved, February 10, 1852.

(No. 40.)

## AN ACT

Making appropriation to pay the members and officers of the general assembly.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

convened, That the sum of thirty thousand dollars be and the same is hereby appropriated out of any money in the State treasury not otherwise appropriated, to pay the members and officers of the present general assembly.

Approved, January 17, 1852.

\$30,000 appropriated.

(No. 41.)

# AN ACT

To appoint a receiver of the two per cent. fund.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the treasurer of the State of Alabama be and he is hereby appointed the agent of the State to receive from the proper officer of the general government the two per cent. fund that now is or may hereafter become due to this State, and to give the proper receipts for the same in the name of the State of Alabama.

State treasurer shall receive 2 per cent. fund.

Sec. 2. And be it further enacted, That all moneys received under this act shall be considered as received into the treasury of this State, and the treasurer shall be liable for the same in the same manner as if the said moneys had been received in payment of taxes due the State.

Effect.

Approved, February 9, 1852.

(No. 42.)

# AN ACT

To authorise the appointment of an agent to settle and collect from the general government moneys advanced or expended by this State during the Mexican war.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of this State be and he is hereby authorised to appoint an agent to present for payment and collect from the government of the United States the several amounts of money advanced, paid, or in any way expended, by this State, or any citizen thereof, in the organizing, equipment, or forwarding to the seat of war any volunteers or troops of any other description called out or ordered into the service of the United States during the Mexican war; also in like manner to present and collect any claims in behalf of this State for advances of a like nature, or moneys expended or paid by this State or liabili-

Governor shall appoint an agent.

ties incurred to any citizen of this State during the hostilities of the Creek Indians from 1835 to 1840.

Sec. 2. And be it further enacted, That the governor may contract with such agent for his compensation, allowing such commissions on the amount collected as the governor may deem reasonable and just, to be paid in all cases out of the sums or means collected by such agent: Provided, The said commissions shall in no case exceed twenty per cent.

Compensation  
of agent.

Approved, February 10, 1852.

(No. 43.)

# AN ACT

To prevent injury by the burning the woods at improper seasons of the year.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, if any person shall wilfully, either by himself, agent, or servant, cause fire to be communicated with the intent to burn the forest, woods or wood-lands upon any lands not his own, except during the months of February and March, and without the consent of the owner, the person or persons thus offending shall be deemed guilty of a misdemeanor and shall be liable to be indicted therefor, and upon conviction be fined in any sum the jury trying the cause may assess not less than ten nor more than two hundred dollars.

Penalty for  
firing woods ex-  
cept in Februa-  
ry and March.

Sec. 2. And be it further enacted, That if any person, shall negligently communicate fire either by himself, agent or servant, except as provided in the first section of this act, or cause the same to be communicated to the forest, woods or wood-land, upon any lands not his own, by means of which the forest, woods or wood-land of another person or of the public land, or any part thereof, be consumed, the person or persons thus offending shall forfeit a penalty of not less than five nor more than one hundred dollars, to be determined by the jury trying the cause, to be recovered as penalties are by law recoverable: Provided, Nothing in this act shall be construed so as to deprive any person injured or the public of any other remedy which is or may be provided in consequence of fire being communicated at any season of the year.

Penalty for ne-  
gligently com-  
municating fire.

Proviso.

Approved, February 5, 1852.



(No. 44.)

## AN ACT

For the preservation of shade trees and for wanton and malicious injury.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That any person who shall maliciously, or with purpose to injure any individual or individuals or the public, cut down or destroy, or be concerned in cutting down or destroying any tree or trees set out or preserved for shade or ornament in or by any public street or square, or in any yard or grounds, (such tree or trees not belonging to the person or persons cutting or destroying the same,) shall be liable and subject to a fine of fifty dollars for each and every tree so cut down or destroyed, to be recovered by indictment in the county where the injury is done; and the judge may add imprisonment in the county jail for a period not greater than sixty days or until the fine and costs be paid.

Penalty for cutting shade trees.

Sec. 2. And be it further enacted, That in prosecuting under this act, no person shall be entitled to be excused from testifying against another on the ground that he will implicate or expose himself; but he shall not afterwards be subject to indictment for his share in any offence against this act to which he has deposed.

Testimony.

Approved, February 9, 1852.

(No. 45.)

## AN ACT

To amend an act approved 12th February, 1850, entitled "an act to authorise and regulate the business of banking."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the words "not less than five dollars nor for any sum which is not the multiple of five and some other number," occurring in the first section of the act recited in the caption, be repealed and stricken out of said section.

1st section amended.

Sec. 2. Be it further enacted, That after the words "United States," first occurring in the second section of said act, the words "or any bonds issued or endorsed by the State of Alabama" shall be inserted and be made a part of said section; and that the words "of the United States" at the end of said section be repealed and stricken out.

2d section amended.

Sec. 3. Be it further enacted, That all after the enacting clause of the thirteenth section be repealed and stricken out and the following inserted in lieu thereof, to wit: "that the stockholders in any association formed under authority of this act shall be liable respectively for the debts of the association in proportion to their stock holden therein."

13th section amended.

Sec. 4. Be it further enacted, That the twenty-ninth section of said act be and the same is hereby repealed.

20th section repealed.

Sec. 5. Be it further enacted, That it shall not be lawful for any association doing business under authority of this act to pay out or put in circulation any note or bill of any bank not created by authority of the laws of the State of Alabama of a less denomination than ten dollars; and any cashier or other officer of any such association who shall pay out or put into circulation any such bank note or bill, shall, upon conviction, be fined twenty dollars for every bank note or bill so paid out or put out into circulation.

Restriction.

Sec. 6. And be it further enacted, That the first section of this act shall not be applicable to any association formed under this act within the county of Mobile, nor shall bills of a less denomination than five dollars, issued by associations under this act in any other county circulate in said county of Mobile; and any such circulation or attempt at circulation within said county shall be subject to the restrictions and penalties against the circulation of bank bill within the denomination of five dollars.

Restriction as

Approved, February 9, 1852.

(No. 46.)

# AN ACT

Supplemental to an "act to amend an act to authorise and regulate the business of banking."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That no person or association of persons engaged in the business of banking under the provisions of the act approved 12th February, 1850, entitled "an act to regulate the business of banking," or of the act to amend the same, passed during the present session of the legislature, shall be authorised to issue circulating notes of a less denomination than two dollars, anything in the said act to amend the "act to authorise the business of banking" to the contrary notwithstanding; and any violation of the provisions of

Restriction.

this act shall be an indictable offence, punishable by fine, at the discretion of the jury.

Approved, February 10, 1852.

(No. 47.)

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AN ACT

To make a donation of the State capitol at Tuscaloosa.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the State capitol at Tuscaloosa, and the lots upon which it is situated, and the furniture appertaining thereto and remaining at Tuscaloosa, be and the same are hereby conveyed to the trustees of the university of Alabama, to be held by them as other property of the university, for the purpose of establishing a preparatory school, a professorship of law, or such other purposes as in the opinion of the said trustees may advance the interest of the university and promote the cause of education; and should said building ever be diverted from the purposes of education it shall revert to the State.

Conveyed to  
trustees of un  
iversity.

Objects.

Restriction.

Approved, January 28, 1852.

(No. 48.)

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AN ACT

To repeal an act to preclude from office certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act entitled "an act to preclude from the office certain persons therein named," approved January 12th, 1833, to be found in Clay's dig., p. 264, sec. 525, be and the same is hereby repealed.

Approved, December 5, 1851.

(No. 49.)

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AN ACT

To provide for the payment of census takers.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller issue his warrants to all the

census takers of the State who failed to return their books in the time prescribed by law, and who shall have made their returns and have not received their pay for the amount due each, according to the provisions of the act approved 11th February, 1850, entitled "an act to provide for taking the census for the year 1850."

Approved, November 25, 1851.

(No. 50.)

# AN ACT

To establish and abolish certain election precincts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That election precincts be and they are hereby established at the following places, to-wit:

Where established.

At Autaugaville, in the county of Autauga:

At Sugar Hill, in the county of Benton:

At Polkville, in the county of Benton:

At the house of John N. Wills, in beat No. 2, in the county of Benton:

At the house of John T. Henderson, in the county of Butler:

At the house of James Richards, in beat No. 12, in the county of Barbour:

At Mount Andrew, in beat No. 6, in the county of Barbour:

At Five Points, in beat No. 8, in the county of Barbour:

At the house of Young G. Goodwin, in the county of Bibb:

At the store of Clark & Clowers, in the county of Chambers:

At the store of Polk, in the county of Chambers:

At Mount Sterling, in the county of Choctaw:

At Elba, in the county of Coffee:

At the house of Joel Falks, in the county of Covington:

At the house of James Caruthers, in the county of DeKalb:

At Pennington's old mill, in the county of Fayette:

At Russellville, in the county of Franklin:

At the house of William R. Crows, in the county of Fayette:

At the house of Thomas Fowler, in the county of Henry:

At Chambers and Green's mills, in the county of Henry:

At Harmon, on the mountain, in the county of Jackson:

At the store of R. J. Hagood, in the county of Jefferson:

At Westmorelandville, in the county of Lauderdale:

At Centre Star, in the county of Lauderdale:

At the house of Amos Lyles, in the county of Lauderdale:

At the store of Masterson, in the county of Lawrence:

At Ridge Grove, in the county of Macon:

At the school house on the 16th section, township 17, of range 5, east, to be called Frankland, in the county of Macon:

At the store of Howell, in the county of Marion:

At the house of William Higgs, in the county of Marion:

At Hubbard's factory, in the county of Marion:

At Pineville, in the county of Monroe:

At the store of J. & H. O'Gwynn, in Buena Vista beat No. 9, in the county of Monroe:

At the store of J. J. Simpkins, in the county of Monroe:

At the house of Benjamin Russell, in the county of Perry:

At the store of Hall, in the county of Russell:

At the house of Allen K. Curry, in the county of Talladega:

At Brownsville, in the county of Talladega:

At the store of Mostillo, in the county of Talladega:

At the house of J. T. Treadway, in the county of Tallapoosa:

At the house of James G. Yarbrough, to be called Kieli-ghee, in the county of Tallapoosa:

At the house of Jno. R. Brooks, in the county of Talladega:

At the Cross Roads, near Patrick Reals, in the county of Tallapoosa:

At the house of John McRea, in the county of Tuscaloosa:

At the house of Thomas Palmer, in the county of Washington:

At the village of Rehoboth, in the county of Wilcox:

At the house of Alfred Sandlin, in the county of Walker:

At Sneedsborough, (formerly Matthews & Powell's store,) in the county of Wilcox:

At Pounds' store, in the county of Benton:

At the house of A. W. Kirby, in the county of Benton:

At Ladiga, in the county of Benton:

At the house of Nimrod Horton, in the county of Benton:

At the house of A. H. Colvin, in the county of Benton:

At the store of Hiram Smith & Son, in the county of Fayette:

At the store of John Chapman, in Mud creek beat, in the county of Cherokee:

At the house of John Nixon, in the county of Lowndes:

At the store of Curtis G. Beason, in beat No. 6, in the county of St. Clair:

At Hughes' Mill, in the county of Tuscaloosa; and at Wilson Shepherd's, in Tuscaloosa county:

At the Court Ground, in Rock Spring beat, in the county of Chambers:

At Cancleville, in beat No. 10, in the county of Dale:

At Olinda Post Office, in the county of Fayette:

At F. Falkner's, in the county of Cherokee:

At the house of John Weir, in Chambers county:

At the Cross Roads, in Big Spring Valley, and at the house of James Davis, on the northside of Tennessee river, in Marshall county.

At Gilbertsboro', and at the house of Simpson Flannegan, in the county of Limestone.

At the store of James Davison, in the county of Marion:

At the house of John Blair, in Limestone county:

At Hanover, in Coosa county:

At the house of Joseph George, in Mobile county:

At the house of John T. Haden, in Madison county:

At Oak Grove, in Greene county:

At Dover, in Russell county:

At Bentonville, in Coffee county:

At the house of Samuel Perry, in Macon county:

At Butler Springs, in Butler county:

At the store of Wright & Ketler, in Butler county:

At the house of Tobias Lee, in Dale county:

At Wooten's store, in Russell county:

At the new school house, near Elija Skelton's, in Tuscaloosa county:

At the house of Amos P. Lyons, in Mobile county:

At Lagrange, in Franklin county:

At Danville, in Morgan county:

At the house of Charles Tindall, in Dale county; and at the house of Joshua Vale, in Fayette county:

Sec. 2. And be it further enacted, That the election precincts heretofore established at the following places be and the same are hereby abolished, to-wit:

Where abolished.

At Abram Holder's, in beat No. 12, in the county of Barbour:

At King's Post Office, in beat No. 12, in the county of Barbour:

At Heagan's old place, in beat No. 8, in the county of Barbour:

At Sixteenth section, in IronWorks beat, in the county of Benton:



At the house of Duncan Sellers, in the county of Butler:  
 At Big Rock, in the county of Choctaw:  
 At the house of Neal McGill, in the county of Covington:  
 At the house of Daniel McDuffie, in the county of Covington:  
 At Bridgeville, in the county of Coffee:  
 At the Open Pond, in the county of Henry:  
 At the house of George Butler, in the county of Henry:  
 At the house of G. Chamblee, in the county of Jefferson:  
 At the house of Darbey, in the county of Lauderdale:  
 At the house of Frederick, in the county of Marion:  
 At the house of Benjamin Foster, in the county of Marion:  
 At Dailey's old store, in the county of Monroe:  
 At Monroe Springs, in the county of Monroe:  
 At the house of Kilgore, in the county of Russell:  
 At Patterson's mills, in the county of Talladega:  
 At the house of Collins, in the county of Talladega:  
 At the house of Albert Yates, in the county of Tallapoosa:  
 At the house of Hiram Haney, in the county of Tallapoosa:  
 At the house of Smith, in beat No. 1, in the county of Tallapoosa:  
 At the house of Edmund Prince, in the county of Tuscaloosa:  
 At Poplar Spring, in the county of Wilcox:  
 At Mayfield's old place, in the county of Benton:  
 At Brown's old place, in the county of Benton:  
 At William P. Reid's, in the county of Benton:  
 At the house of William Wilson, in the county of Fayette:  
 At the house of Brothers, in the county of St. Clair:  
 At the house of Alford, in the county of St. Clair:  
 At the house of Hughes, in the county of Tuscaloosa:  
 At Rock Spring, in the county of Chambers:  
 At the house of Ava Brooks, in the county of Dale:  
 At the house of John A Trulls, in the county of Fayette:  
 At Cooley's, on Spring creek, and at John Davis', and at Oak Hill academy, in the county of Cherokee:  
 At Jesse Fitzpatrick's, in Chambers county:  
 At the house of Craig, in Limestone county:  
 At the house of Adams, in Limestone:  
 At the house of Benjamin F. Cleveland, in Coosa county:  
 At Liberty Hill, known as Grayson's precinct, in Madison county:  
 At the house of Travis George, in Mobile county:

At Ridgeville, Butler county:  
 At the house of Isaac Hill, in Butler county:  
 At the house of Dujcan Sellers, in Butler county:  
 At the house of James A. Branyan, in Fayette county:  
 At Alabama Port, in Mobile county:  
 At Daniel's prairie, in Greene county:  
 At the house of Elija Reynolds, in Dale county:  
 At Simm's, in Russell county:  
 At the house of George W. Lewis, in Tuscaloosa county:  
 At the house of Samuel Branton, in Dale county:  
 And at Frost spring, in Franklin county.  
 Approved, February 10, 1852.

(No. 51.)

## AN ACT

To provide for leasing the penitentiary.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That three months before the present lease of the penitentiary shall expire, the governor must advertise in such newspapers in the State as he may select, that sealed proposals will be received for the lease of the penitentiary for six years, to commence on the \_\_\_\_\_ day of \_\_\_\_\_, 1852, designating the day on which the lease of the present lessee will expire.

Governor shall  
 advertise to  
 lease.

Sec. 2. Be it further enacted, That the proposals must be addressed to the governor at the seat of government; must state the amount proposed to be paid for each year; and must state also the names of the persons whom the applicant will offer as his securities for the payment of the rent and the faithful performance of his duties according to law.

Proposals.

Sec. 3. Be it further enacted, That the advertisement required by section first, must state a day, not less than twenty nor more than thirty days before the expiration of such lease up to which the proposals must be received, and on that day or as soon thereafter as may be, the proposals must be opened by the governor and the proposals of the highest bidder accepted within twenty days thereafter, if in the opinion of the governor he is a fit person to discharge the duties of lessee and his securities are such as to afford the State full security for the payment of the rent and the performance of such duties.

Opening bids,  
 &c.

Conditions, &c.

Sec. 4. Be it further enacted, That if the highest bidder

is not a fit person to discharge such duties, or the securities named by him insufficient, he may accept the proposals of the next highest bidder and so on.

Powers of governor.

Sec. 5. Be it further enacted, That between two or more bids of the same amount the governor may make the selection.

Bids the same.

Sec. 6. Be it further enacted, That no proposals must be received which do not offer to take the labor of the convicts as a full consideration for the lease without any payment to be made by the State.

Proposals regulated.

Sec. 7. Be it further enacted, That the lease does not impair the power of the governor to pardon convicts or commute the punishment of any person according to law.

Powers secured.

Sec. 8. Be it further enacted, That the lessee must give bond payable to the State of Alabama, with sufficient securities to be approved by the governor, conditioned for the payment of the rent yearly, which must be paid to the state treasurer.

Bond of lessee.

Sec. 9. Be it further enacted, That in addition to the bonds required by the preceding section, the lessee must also give bond in the sum of twenty-five thousand dollars, payable to the State of Alabama, with securities to be approved by the governor, conditioned for the faithful performance of his duties as such lessee during his term.

Second bond of lessee.

Sec. 10. Be it further enacted, That the bonds required by the provisions of this act must be recorded and kept in the office of the comptroller.

Where lodged.

Sec. 11. Be it further enacted, That the governor may require additional bonds of the lessee whenever in his opinion the public interest demands; and failing to give such additional bonds within ten days after requisition is made, the lease may be declared forfeited and the governor must proceed as is required in the case of the death of the lessee.

Addit'l bonds may be requir'd

Sec. 12. Be it further enacted, That in case the lease is declared forfeited according to the provisions of the preceding section and the lessee or any other person in possession of the penitentiary refuses on demand to deliver up the same to the person appointed by the governor, together with the keys and all the property of the State, the governor must issue his order to the sheriff of Coosa county, commanding him to put such person in possession of the same, which order must be immediately executed by said sheriff; and the lessee or person in possession so refusing is guilty of a misdemeanor, and on conviction must be fined not less than two thousand dollars and imprisoned for twelve months.

Governor must put lessee in possession.

Sec. 13. Be it further enacted, That if the lessee fail to give the bonds required by this act and to take the oath required by section thirty-second of this act, the governor may accept the proposals of the next highest bidder.

Sec. 14. Be it further enacted, That on the approval of the bonds required by this act and taking the oath prescribed by section thirty-second of this act, the inspectors of the penitentiary must make a correct inventory of all the personal property belonging to the State appertaining to the penitentiary and make a correct appraisement of the same and enter each article with the appraisement in a book kept by them; after which they must deliver such property with the keys and all the buildings to the lessee on his giving a receipt for the property so inventoried.

Duty of inspectors of penitentiary.

Sec. 15. Be it further enacted, That the lessee is during the continuance of his lease, the warden of the penitentiary and has all the powers given to and must discharge all the duties required of that officer by law, and has the sole authority in directing the employment and labors of the convicts within the penitentiary under the regulations prescribed by law, and receiving to his own use the proceeds of such labor.

Powers of lessee.

Sec. 16. Be it further enacted, That in addition to the duties devolving on him as warden, the lessee must, 1st. Furnish at his own expense a sufficient number of competent guards, the number to be determined by the board of inspectors; 2d. Supply at his own expense the convicts with a sufficiency of healthy food, comfortable clothing, beds and bedding, and medicines for the sick; see that they are properly attended and their wants provided for in sickness, and treat them in all respects with humanity without imposing on them more labor than they are able to perform or labor which is injurious to their health; 3d. To provide at his own expense a chaplain to perform divine service every Sunday, and a competent physician to attend the sick convicts; 4th. To keep the convicts with safety, and to cause all repairs to be made which may be necessary to effect that object; 5th. To perform such other duties as by law may be required of him.

Duties of lessee.

Sec. 17. Be it further enacted, That the lessee is civilly responsible for the acts or omissions of all persons employed by him.

His responsibilities.

Sec. 18. Be it further enacted, That he must pay the inspectors the compensation allowed them and at such times as are prescribed by law, and failing to make such payment the same may be recovered of him and his secu-

Must pay inspectors.

rities after demand made, or any of them, having three days' notice by motion made in the circuit court of Coosa county, with interest and five per cent. damages; and on the trial a copy of the bond certified by the comptroller is evidence.

Sec. 19. Be it further enacted, That in case of the death of the lessee before the termination of his lease, the inspectors must immediately employ a fit person to take charge of the penitentiary as warden and employ the other necessary officers and guards until the appointments made by the governor as hereinafter directed, and the compensation of such warden, officers and guards when certified by the inspectors, shall be paid out of the state treasury.

In case of death of lessee, duty of inspectors.

Sec. 20. Be it further enacted, That such warden, officers and guards are for the time being under the direction and control of the inspectors, who must during such time direct the labor of the convicts as may be most advantageous to the State.

And their powers.

Sec. 21. Be it further enacted, That upon receiving notice of the death of the lessee, the governor must forthwith advertise as required by section first of this act, for sealed proposals for a lease of the penitentiary for six years, which publication must be made for at least six weeks, and must designate the day after which no proposals will be received and on which the lease is to commence.

Duty of governor seal-nor in case of death of lessee.

Sec. 22. Be it further enacted, That the governor must open such proposals on the day appointed or as soon thereafter as may be and must accept proposals as required by the previous provisions of this act.

Proposals for new letting.

Sec. 23. Be it further enacted, That the proposals must be made, the names of the securities stated, bonds executed and approved, recorded and kept in the same office, inventory and appraisement made by the inspectors, and possession delivered to the lessee as required by the previous provisions of this act; and such lessee must perform all the duties imposed on the lessee by the provisions of this act and under the same penalties.

Regulated.

Sec. 24. Be it further enacted, That until such lessee qualifies and enters on his duties, the penitentiary is under the control and direction of the inspectors, subject to the supervision of the governor.

Penitentiary under control of inspectors until lessee is qualified.

Sec. 25. Be it further enacted, That in case no lease is made under the provisions of this act, the governor is authorised to appoint a warden, who holds his office until the end of the next session of the general assembly, and until his successor is qualified.

In case no bid, governor may appoint warden.

Sec. 26. Be it further enacted, That the other officers, except the inspectors, are governed as to their appointment, vacancies, compensation, duties and powers, by the law in force before the 4th February, 1846.

Duty of officers.

Sec. 27. Be it further enacted, That the warden so appointed is also as to his compensation and duties governed by the laws in force before the 4th February, 1846.

Compensation of warden appointed.

Sec. 28. Be it further enacted, That in the case provided for by section twenty-five, the treasurer is on the direction of the governor to appropriate such sum as he may direct, not exceeding at the rate of seven thousand dollars a year, for the expenses of the penitentiary.

Duty of state treasurer.

Sec. 29. Be it further enacted, That in case of the death of the lessee, the lease is terminated, and rent must only be paid up to the time of his death; and in case of the forfeiture of the lease under the provisions of section eleven, the State is only entitled to rent up to the time the lessee delivers possession of the penitentiary and property he has received, or the appraised value thereof to the person appointed by the governor to receive the same.

Death of lessee terminates the lease.

Sec. 30. Be it further enacted, That it is the duty of the lessee to keep the penitentiary, and all the buildings belonging thereto, in complete repair, so that at the expiration of his lease, or in case of the forfeiture of the same, such penitentiary, buildings, and all the property belonging to the State appertaining thereto, shall be in as good condition as when he received it, or in case of personal property received by him, must pay the appraised value of the same; and failing so to do, his bond given under section nine stands as security to the State thereof.

Duty of lessee.

Sec. 31. And be it further enacted, That the warden, inspectors, guards, and all other officers employed about the penitentiary, in addition to the oath required by the first section of the sixth article of the constitution, must take and subscribe the following oath: "I do solemnly swear that I will faithfully execute all the duties required of me as \_\_\_\_\_ in the penitentiary of the State of Alabama, and will execute the laws and regulations prescribed for the government of such institutions, so far as concerns my office, ( or appointment as the case may be,) and that I will on no occasion ill treat or abuse any convict under my charge or control, or punish him beyond the punishment ordered by law or the rules and regulations of the institution."

Add'tl oath of warden and other officers of the penitentiary

Approved, February 9, 1852.



[No. 52.]

## AN ACT

To require the clerk of the supreme court to forward certificates to the courts below so soon as the business of each division is disposed of.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That immediately after the business of each division is finished at each term of the supreme court, it shall be the duty of the clerk of said court to send to the clerks of the courts below the certificates of affirmance or reversal in all cases disposed of at said term, with copies of the opinions, when necessary to be sent down: Provided, That if the said court should grant a rehearing in any cause after the certificate shall have been so forwarded, the clerk of the supreme court shall so certify to the clerk of the court below, which certificate shall operate as a supersedeas, if any execution issue on the certificate of affirmance so forwarded, without in anywise impairing the obligation of the sureties to the writ of error or certiorari bond.

Duty of clerk  
of supreme  
court

Proviso.

Approved, February 5, 1852.

[No. 53.]

## AN ACT.

To require the early publication of the head notes of the decisions of the supreme court.

Sec. 1. Be it enacted by the Senate and the House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the judges of the supreme court of the State of Alabama to furnish a synopsis, on a separate piece of paper, of the points decided in each case, at the same time the opinion is read.

Duty of supreme  
court judges.

Sec. 2. And be it further enacted, That it shall be the duty of the clerk of the supreme court, at the end of each week, to make a transcript of the docket of each case which has been decided during the week, stating whether reversed or remanded, and furnish the same, with the synopsis of all the cases which have been decided during the week, to the public printer, if he will agree to publish the same once in his weekly paper at any time during the year, within three days after they are thus handed in, without charge; and if the public printer will not thus agree, then the clerk shall give the same to the publisher of any one newspaper published in the city of Montgomery, (to

Duty of clerk.



be selected by said clerk,) who will agree thus to publish the same: Provided, Said synopsis may afterwards be altered by said judges or the reporter, if it be thought expedient.

Proviso.

Approved, February 10, 1852.

[No. 54.]

# AN ACT

To alter and amend the law in relation to the taxation of costs in the supreme court.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the clerk of the supreme court of the State of Alabama shall be entitled to demand and receive for the services hereinafter mentioned the fees thereto respectively annexed, and no more or other, to be taxed and collected as now prescribed by law: For docketing cause, 25 c. ; entering attorney, 25 c. ; filing transcript, 50 c. ; writ of error, 25 c. ; bond, 25 c. ; citation, 75 c. ; argument and joinder, 50 c. ; briefs, 50 c. ; order, 25 c. ; continuance, 10 c. ; writ of scire facias, 50 c. ; certiorari, 50 c. ; filing same with return, 10 c. ; entering judgment 75 c. ; certificate to clerk of court below, 50 c. ; copy of opinion of court, per hundred words, 10 c. ; execution, 65 c. ; taxing writs and copying and entering satisfaction, 80 c.

Clerk's fees

Sec. 2. And be it further enacted, That no state tax shall be assessed upon any cause in the supreme court except a tax of six dollars, which tax shall be assessed, collected, accounted for, and paid over to the state treasurer, as prescribed in the act "to alter and amend the several acts prescribing the duties of the clerk of the supreme court, to regulate the fees of said officer, and for other purposes mentioned therein, approved 25th February, 1848;" and that in addition to the fees allowed by the first section of this act to the clerk of the supreme court, he shall be entitled to a fee of fifty cents in each case, to be taxed and collected as other costs, for binding up the records as required by the act herein specified.

State tax.

Approved, February 10, 1852.

[No. 55.]

## AN ACT

To repeal in part "an act to form two new chancery districts," approved 12th of February, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of an act entitled "an act to form two new chancery districts," approved 12th February, 1850, as provides that the county of Butler shall be transferred to and form a part of the twelfth district of the southern chancery division be and the same is hereby repealed.

Repeal.

Sec. 2. Be it further enacted, That the said county of Butler shall hereinafter form and be known as the seventh district in said division; and the chancellor of said division is hereby required to appoint a register for said district, whose duties and powers shall be the same as other as other registers in chancery.

Butler the 7th  
chancery  
district.

Sec. 3. Be it further enacted, That the chancery court for said seventh district, constituted of the county of Butler, shall be held at the court house of said county, on the fourth Monday in April in each and every year, and continue in session until the business is disposed of: Provided, however, The chancellor shall have the power of appointing the time for holding said court, whenever from any cause it may not be held at the time herein above specified, under the same rules and regulations that he is now by law authorised to do in other districts.

Sec. 4. Be it further enacted, That all the records and papers which have been transferred to the chancery court at Hayneville, in Lowndes county, from the county of Butler, shall be returned to the register's office of Butler county; as also all papers connected with causes now pending in said court which properly belong to the county of Butler, together with a certified transcript of all orders which may have been made in said causes; and it is hereby made the duty of the register of said seventh district to apply for and obtain said records and papers from the register of Lowndes county.

Records and  
papers to be  
transferred.

Sec. 5. Be it further enacted, That the County of Choctaw shall form and constitute a separate chancery district, to be known as the fifth chancery district; and it is hereby made the duty of the chancellor of the southern chancery division to appoint a register for the same.

Choctaw the  
5th district.

Sec. 6. Be it further enacted, That the chancery court for said county of Choctaw shall be held at the court house thereof, on the second Monday in June in each and every year, and may continue until the business is disposed of.

Court when  
held.

Sec. 7. And be it further enacted, That all causes now pending in the chancery court at Livingston, which would properly belong to the chancery court of Choctaw if there had been a separate chancery court for said county, be and the same are hereby transferred to the chancery court of Choctaw; and it is made the duty of the register of Sumter County to deliver to the register of Choctaw, on application for the same, all papers belonging to any of said causes, together with a certified transcript of all orders made in such causes.

Causes, &c.,  
transferred.

Approved, February 9, 1852.

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[No. 56.]

# AN ACT

Authorising the chancellor of the northern division of this State to hold an additional term of the chancery court for the 38th district.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the chancellor of the northern chancery division of the State of Alabama be and is hereby required to hold a separate chancery court for the county of Cherokee on the Thursday next before the third Monday in February in each and every year, (after the expiration of the year 1852,) in addition to the chancery court now required by law to be held in the county of Cherokee, which said term to be held on the second Thursday in February may continue for three days.

Shall hold  
special term for  
Cherokee co.

Approved, January 28, 1852.

[No. 57.]

# AN ACT

To arrange and fix the times when the chancery courts in the middle division shall be held.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be held in the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third chancery districts, two terms a year of the court of chancery, that is to say: in the sixteenth district, on the first Monday in May and November; in the fourteenth district; on the sec-

Two terms a  
year in certain  
districts

When held

1851-'52

ond Monday in May and November; in the fifteenth district, or the third Monday in May and Thursday after the second Monday in November; in the seventeenth district, on the fourth Monday in May and third Monday in November; in the eighteenth district, on the first Monday after the fourth Monday in May and Thursday after the third Monday in November; in the nineteenth district, on the second Monday after the fourth Monday in May and fourth Monday in November; in the twentieth district, on the third Monday after the fourth Monday in May and first Monday after the fourth Monday in November; in the twenty-first district, on the fourth Monday in June and second Monday after the fourth Monday in November; in the twenty-third district, on the first Monday in July and February; and in the twenty-second district, on the second Monday in July and February.

Sec. 2. Be it further enacted, That the spring and summer terms in all the aforesaid districts, except the twenty-second and twenty-third shall continue six judicial days, if the business so long require; but in the twenty-second and twenty third districts, the summer term shall be limited to three judicial days.

Duration of terms.

Sec.3. Be it further enacted, That the fall terms in the sixteenth, nineteenth and twentieth districts, and the February term in the twenty-third district, shall also continue six judicial days, if the business shall so long require; and in the twenty-first and twenty-second districts, the fall and winter terms shall continue in session until all the business is disposed of.

Duration of terms.

Sec. 4. Be it further enacted, That the fall terms in the fourteenth, fifteenth, seventeenth and eighteenth districts, shall be limited to three judicial days each.

Limitation.

Sec. 5. Be it further enacted, That in the twenty-fourth, twenty-fifth and twenty-seventh chancery districts, there shall be held one term a year of the chancery court, to continue three days each, if required; and also, there shall be held one term a year of said chancery court in the twenty-sixth district, to continue in session until the business is disposed of; said courts to be holden as follows, that is to say: in the twenty-fourth district, on the Thursday after the first Monday in July;; in the twenty-fifth district, on the Thursday after the second Monday in July; in the twenty-seventh district, on the third Monday in July; and in the twenty-sixth district, on the Thursday after the third Monday in July.

One term a year in certain districts.

Sec. 6. And be it further enacted, That nothing contained

1851-'52

in the newly prepared code, if adopted, shall require the holding of the said courts at any other time than prescribed by this act.

Provisio against  
the Code.

Approved, January 31, 1852.

[58.]

## AN ACT

To alter the time of holding the circuit courts in the sixth judicial circuit.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the circuit courts of the sixth judicial circuit shall commence and be holden as follows: in the county of Choctaw, on the first Mondays of March and October, and continue two weeks; in the county of Washington, on the third Mondays of March and October; in the county of Clarke, on the fourth Mondays of March and October; in the county of Monroe, on the first Mondays after the fourth Monday in March and October; in the county of Baldwin, on the second Mondays after the fourth Monday of March and October; in the county of Mobile, on the third Mondays after the fourth Monday in March and October, and continue until the business is finished.

Where holden  
in  
Choctaw.

Washington  
Clarke  
Monroe.

Baldwin.

Mobile.

Approved, February 9, 1852.

[No. 59.]

## AN ACT

To change the time of holding the spring term, 1852, of the circuit court of the county of Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the next term of the circuit court of Montgomery county shall be held on the fourth Monday in May, 1852, and may continue in session three weeks, unless the business is sooner disposed of.

Spring term,  
1852, when  
held.

Sec. 2. Be it further enacted, That this act shall only apply to the spring term, A. D. 1852, of said circuit court; and that after the said spring term, 1852, of said circuit court of Montgomery county, the terms of said circuit court shall be held at the times heretofore fixed by law.

Application of  
act

Sec. 3. And be it further enacted, That all process here-

tofore issued, or that may be issued hereafter, and all recognizances made returnable to the spring term, 1852, of the circuit court of Montgomery county, as heretofore fixed by law, shall be considered made and held returnable to the said fourth Monday in May, A. C. 1852.

Approved, February 9, 1852.

Process.

[No. 60.]

# AN ACT

To require additional duties of the clerks of the circuit courts of this State, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter it shall be the duty of the clerks of the circuit courts of this State, whenever they shall have knowledge, by information or otherwise, that any person against whom any indictment may be pending in their respective court, has been sentenced to and is confined in the penitentiary of this State, with as little delay as possible, to certify a copy of such indictment to the governor of this State, and also to the lessee or warden of the penitentiary; and upon such information, by either the governor, or lessee, or warden, it shall not be lawful for said convict to be discharged from the penitentiary under a pardon of the governor of the particular offence for which said convict is so confined until the said convict shall have first executed a recognizance for his appearance at the next term of the court where such indictment is pending, if such case be bailable, or be otherwise legally discharged from such indictment.

Clerk shall certify in certain cases.

Sec. 2. And be it further enacted, That any clerk who shall knowingly neglect to do the duties required by this act, shall, upon motion of the solicitor of said court, be fined not less than one hundred nor more than five hundred dollars, at the discretion of the court trying the same.

Penalty for neglect

Approved, February 10, 1852.

[No. 61.]

# AN ACT

To require the clerks of the different courts and judges of probate courts to make reversed indexes, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

1851-'52

convened, That the clerks of the circuit and chancery courts and judges of probate of the several counties of this State be and they are hereby required to keep reversed indexes to all the record books of their offices in good and substantial well bound books, unless in cases where there are already sufficient indexes; and the revenue commissioners shall make a reasonable allowance for said services.

Shall make reversed indexes.

Sec. 2. And be it further enacted, That it shall be the duty of the several solicitors and attorney general of this State, within their several districts, to enquire into the fact whether the said officers have completed said indexes, allowing two years for the same from the time of the passage of this act; and in every case where any of said officers shall have failed or refused to complete said indexes within the time prescribed by law, it shall be the duty of the proper solicitor or attorney general, as the case may be, to move against any such officer from term to term of the circuit court of the proper county; and on three days' previous notice, shall recover judgment against such officer for the sum of one hundred dollars, unless good cause to the contrary be shown; and said recovery shall be had from term to term, so long as any such officer shall remain in default.

Duty of solicitor.

Penalty on clerks.

Sec. 3. Be it further enacted, That if any clerk of the circuit or chancery court, or judge of probate, in any county in this State, shall think it necessary to recopy any book or books in his office, in order to preserve the records thereof from damage or loss by decay or dilapidation, he shall apply to the revenue commissioners of his county, who shall examine the books so proposed to be copied; and if they shall think it necessary for the better preservation of said records, they shall cause an order to that effect to be entered upon the minutes of the commissioners' court; and the keeper of said records shall without delay procure good and substantial books, and shall recopy said books named in said order, for which said commissioner shall make a reasonable compensation.

When records may be recopied.

Sec. 4. Be it further enacted, That the public records of the offices of the clerks of the circuit and chancery courts and of the office of probate judge in the several counties of this State shall be free to the examination of and all persons desiring to do so, free of charge, at any time when said records may not be in use by said officers.

Offices declared accessible.

Sec. 5. Be it further enacted, That the clerk of the circuit or chancery court, or judge of probate, in any county in this State, shall make an examination of the records of his office at the instance of any person applying; and for



each examination, where reference is had to more than one book, the keeper of the records shall be entitled to twenty-five cents for each examination; and said keeper shall make a memorandum of a chain of title when required, specifying the parties, the date, upon what books and pages found; and for each separate conveyance in said chain he shall receive a fee of twenty-five cents: Provided, That in no case shall the fees exceed two dollars; and for the specific statement of any other matter from any of said records, said keepers shall receive a fee of twenty-five cents.

Fee for  
examining  
records.

For chain  
title.

Sec. 6. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repealed.

Approved, February 9, 1852.

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AN ACT

[No. 62.]

To change and regulate the time of holding the circuit courts of the counties of Jackson, DeKalb and Cherokee.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the circuit court of Jackson county shall commence on the third Monday in March and September in each year, and shall continue in session for the term of two weeks, if necessary to dispose of the business before said court; the circuit court of DeKalb county, on the first Monday after the fourth Monday in March and September, and may continue two weeks for the fall term, 1852; and the circuit court of Cherokee county, on the third Monday after the fourth Monday in March and September for the fall term, 1852, and shall continue one week for the said term; after which year the circuit courts of DeKalb and Cherokee shall commence and be holden as now prescribed by law.

Jackson.

DeKalb.

Cherokee.

Sec. 2. And be it further enacted, That all executions, writs, subpoenas, and process of every kind, made returnable to any of the said circuit courts at the times now provided by law, shall be and the same are hereby made returnable to said courts at the times prescribed by this act.

Process.

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AN ACT

[No. 63.]

To compel chancellors to hold their courts.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, if any chancellor shall fail or neglect to attend any term of his court, or after having attended shall absent himself before the final adjournment of said court, every such chancellor so failing or neglecting to attend, or absenting himself, (unless the same be necessary on account of the sickness of himself or his family, to be proved by his own affidavit, which shall be produced to the comptroller of public accounts and filed in his office,) shall forfeit the sum of twenty-five dollars, to be deducted from his salary, for each and every day he may so neglect or fail to attend or shall absent himself.

Failing to hold court forfeits \$25 per day.

Sec. 2. Be it further enacted, That it shall be the duty of the register of each chancery district in this State, whenever any chancellor, whose duty it is to hold court in his district, shall fail or neglect to attend at the commencement of any term of said court, or after having attended shall absent himself from said court before it shall have finally adjourned, immediately after the final adjournment of said court to certify to the comptroller of public accounts the number of days any such chancellor shall have failed or neglected to attend said court or shall have absented himself therefrom after having attended.

Duty of Register in reporting.

Sec. 3. And be it further enacted, That if the register of any chancery court of this State shall fail or neglect to perform the duty required of them respectively by the second section of this act, for the space of thirty days, every register so offending shall be liable to be fined in the sum of one hundred and fifty dollars, to be recovered on motion of the solicitor in the circuit court of the county in which such delinquent may reside, two days' previous notice in writing being given of such motion: Provided, There shall be no forfeiture for the loss of a day at the commencement of any term, if the preceding court adjourn so late that the chancellor cannot reach the place of holding court in time to open the same, nor where he is prevented from reaching the place where a court sits by high water; nor shall any chancellor be compelled to travel on the Sabbath day to reach a court the first day: And provided further, That such absence is not attributable to any willful neglect of duty.

Penalty on register failing to perform duty.

Proviso.

Approved, February 9, 1852.

[No. 64.-]

## AN ACT

To extend the power of circuit judges and chancellors in granting injunctions.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judges of the several circuit courts and the several chancellors in this State be and they are hereby authorized, either in term time or vacation, to grant writs of injunction, ne exeat and attachment, returnable unto any court of chancery in the State, whether the court to which the process is made returnable is held in the district, division, court or county for which the judge or chancellor granting the same was elected or appointed, or in a different one.

Powers

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and they are hereby repealed.

Repealed.

Approved February 9, 1852.

[No. 65.-]

## AN ACT

Conferring certain powers on the judge of the circuit court of Mobile county, and on the judge of the city court of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be lawful for the judges of the circuit court and city court of Mobile to transfer to each other's court, respectively, for trial, any cause, civil or criminal, upon a proper showing made; and the court to which such cause may be transferred shall proceed to try the same in the same manner as if said cause had originated in that court.

Approved, December 10, 1851.

[No. 66.-]

## AN ACT

To define the jurisdiction of the city court of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the powers and jurisdiction of the circuit courts of this State be and are hereby conferred on the city court of Mobile for Mobile county, (except in actions

Powers conferred on the city court of Mobile.

to try titles to land;) and the judge of said court shall have the same powers and perform the same duties in Mobile county as the judges of the circuit courts of this State now have or may hereafter be invested with.

effect  
of laws  
giving  
juris-  
diction;

Sec. 2. Be it further enacted, That all laws of a general nature (except as to actions to try titles to land) that may hereafter be adopted, giving jurisdictions to the circuit courts of this State or to the circuit court of Mobile county, shall be held to apply and extend to the city court of Mobile within said county, although said city court may not be mentioned in such law, as fully as if the said court was mentioned in said law.

Sec. 3 And be it further enacted, That the salary of the judge of said court shall be payable quarterly upon his order on the county treasurer of Mobile county.

Salary  
payable  
quarter-  
ly.

Approved, February 7, 1852.

/No. 67.-/

#### AN ACT

Supplemental to an act approved December 10th, 1851,

"To authorise the judge of city and circuit courts of Mobile to transfer cases, and to change the time of holding the city court."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the intent and meaning of the words "upon a proper showing made," in said act, (of which this is supplemental,) is that the said judges, or either of them, shall only be authorised to transfer causes as therein provided for when they are incompetent from interest in such casue or are of affinity to either of the parties.

Explains.

Sec. 2. And be it further enacted, That the term of the said city court, now required to be held on the first Monday in December, shall hereafter be held on the second Monday of October of each year.

Terms of  
court  
changed.

Approved, January 31, 1852.

/No. 68.-/

#### AN ACT

To define the duty of registers in chancery in making the complete record of cases decided in chancery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the registers of the several courts of chancery in this

State, shall not make any complete record of the cases in Chancery that are dismissed for the want of prosecution or for the want of security for costs, or where the suit abated by the death or marriage of either party. Of making final records.

Sec. 2. Be it further enacted, That in cases where the final decree has been rendered and a motion to dismiss the bill for the want of equity, or upon a demurrer to the bill for the want of equity, or for multifariousness, or for a non-rejoinder or misjoinder of parties, that the bill and exhibits and the final decree is all that shall be recorded, unless the chancellor otherwise direct in the decree. Of making certain final record.

Sec. 3. Be it further enacted, That when a final decree has been rendered upon the merits of a case, that the register shall not make any record of any commission issued to take the deposition of any witness or witnesses, nor the direct, cross, or rebutting interrogatories, or the exhibits thereto, nor the answers to such interrogatories in any case whatever; but it shall be the duty of the register to mark, file and carefully preserve all papers related to any case decided in chancery; and whenever a case is carried to the supreme court, the register shall make out a transcript from the complete record and the papers on file in said court relating to the case; which transcript shall be used in the same way and have the same effect as if all the papers in the case had been entered upon the complete record. Final record regulated in certain cases.

Sec. 4. Be it further enacted, That whenever a transcript of the record, or proceedings of any suit which is pending or has been decided in any court of chancery, may be required to be used as evidence, it shall be the duty of the register to make out a transcript of all the papers on file in his office relating to the case which have not been entered upon the complete record, as well as a transcript of the complete record; and such transcript duly certified shall have the same force and effect as evidence in any court in this State, as if all the papers in the case had been entered upon the record. Of transcripts.

Sec. 5. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed. Repeals.

Approved, February 10, 1852.

[No. 69..]

# AN ACT

To authorise a change of venue in certain cases therein named.

Sec. 1. Be it enacted by the Senate and House of Represen-



tatives of the State of Alabama in General Assembly convened, That the presiding judge of the sixth judicial circuit be and he is hereby authorised and required, upon the application of Richard H. Long, to transfer to the circuit court of Mobile county two certain causes now pending in the circuit court of Washington county, wherein the State of Alabama is plaintiff and the said Richard H. Long is defendant, if the reasons urged for said transfer shall in the opinion of the said judge be sufficient to warrant a change of venue in any case.

Power of judge of circuit court in granting a change of venue.

Sec. 2. And be it further enacted, That in the event of said application being made and granted as before provided, that it shall be the duty of the clerk of the circuit court of Washington county to transmit to the clerk of the circuit court of Mobile a full transcript of the proceedings in said circuit court, together with all the papers pertaining to said causes, as now required upon change of venue; and upon receipt of said papers by the clerk of the circuit court of Mobile, it shall be his duty to file the same in his office and to enter said causes on his trial docket; and the said circuit court of Mobile shall be and the same is hereby authorised to make such necessary orders, and proceed to trial and judgment, as fully and to all intents and purposes as though the indictments had originated in said court and no change of venue had been ordered therefrom.

If granted papers shall be transmitted.

Approved, December 10, 1851.

[No. 70.]

# AN ACT

To remove obstructions in the Tombecbee river.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Oliver H. Prince, as president, and Eli S. Thornton and Alexander Carleton, of Clarke county, Nathan B. Whitfield, of Marengo, George W. Gaines and E. K. Adair, of Choctaw, and John W. Smith, of Sumter, as commissioners, be and they are hereby appointed to superintend the removal of the obstructions in the Tombecbee river between McGrew's shoals and Demopolis.

Commissioners.

Sec. 2. Be it further enacted, That the work shall commence at the lowest obstruction and proceed up, in the general finishing one obstruction before proceeding higher.

Object.

Sec. 3. Be it further enacted, That after the board created by this act shall have organised, it shall be their duty to advertise for contracts to do the work contained in

Board shall let work to contract

specifications to be made out by them; and after receiving proposals they shall let out the work to the lowest bidder and shall require the contractor to give bond and security in the sum of forty thousand dollars for the faithful performance of the work, payable to the president of the board.

Sec. 4. Be it further enacted, That after the execution of said bond, the president and commissioners may at their discretion draw one-third of the money by this act, to enable the contractor to proceed in the work; and after that shall be properly expended under the contract, to draw one-third more; and at the completion of the contract, the balance; and should there be more contractors than one, the separate bond of contractors shall be in amounts in proportion to their contract.

Payments.

Sec. 5. Be it further enacted, That in the sum of twenty thousand dollars be and the same is hereby appropriated for the execution of said work out of any portion of the three per cent fund that may now be unappropriated or that may hereafter be received by the State from the general government.

Appropriation,  
\$20,000.

Sec. 6. And be it further enacted, That whenever the president of the commissioners shall certify to the governor that the bond or bonds required to be given by contractors have been properly executed, it shall be his duty to draw on the proper state officer having the custody of said fund for the amount and in the proportions allowed by this act.

Drawing  
of money.

Approved, February 6, 1852.

[No. 71.]

# AN ACT

To erect a tomb-stone over the remains of Hon. John R. Larkin, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of the State is hereby authorised to have erected over the grave of the Hon. John R. Larkin, late a member of the legislature of this State, a suitable tomb-stone, with an appropriate inscription thereon; and the comptroller of public accounts is hereby authorised to draw his warrant upon the state treasurer for such sum as may be required to pay the expenses thereof, upon a statement made by the governor of the cost of said tomb-stone, out of any money in the treasury not otherwise appropriated.

Approved, February 7, 1852.



[No. 72.]

## AN ACT

Supplemental to an act providing for a keeper of the state house, approved 9th January, 1852.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act entitled "an act to provide a keeper for the state house at Montgomery, "approved 9th January, 1852, be so construed as to authorise the comptroller of public accounts to draw his warrant quarterly for the said sum of one hundred and fifty dollars; any law to the contrary notwithstanding.

Payable  
quarter-  
ly.

Approved, February 10, 1852.

[No. 73.]

## AN ACT

Authorising the governor to appoint an agent to settle with John G. Graham, lessee of the penitentiary.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor be and he is hereby authorised to appoint some suitable agent to settle with John G. Graham, lessee of the penitentiary, according to the provisions of the act providing for the leasing of the penitentiary, which settlement shall be final when approved by the governor.

Approved, February 10, 1852.

[No. 74.]

## AN ACT

To prevent the sale of spirituous liquors to free persons of color.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall not be lawful for any person or persons to retail or sell in any quantity spirituous liquors to any free person of color.

Declara-  
tory.

Sec. 2. And be it further enacted, That any person violating the provisions of this act shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars; and that the solocitor's fee shall be twenty-five dollars for every conviction.

Penalty.

Approved, February 9, 1852.

[No. 75.]

## AN ACT

To authorise the appointment of guardians at law for free persons of color.

Sec. 1 Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be lawful for the judge of probate of the several counties, on any application and proper showing made to such judge, to appoint a guardian for any free person of color of this State, whether over or under the age of twenty-one years, and to require such person as may be appointed as such to enter into bond with good security to the said judge conditioned to faithfully take charge of and faithfully account for all such effects, goods and moneys of such free person as may come to his possession, and pay and deliver the same over to such free person of color, if of age, whenever demanded by him; or, if under age, as he may be ordered by the court, and shall account to the court and be liable as other guardians.

When guardian may be appointed for f. p. of c.

Sec. 2. And be it further enacted, That the person appointed as guardian as aforesaid may be and he is hereby authorised to bring suits, ~~as~~ such guardian, for any cause of action which does not may exist in behalf of such free person of color; any law, usage, or custom to the contrary notwithstanding.

Power of guardian.

Approved, February 9, 1852.

[No. 76.]

## AN ACT

To create a clerkship in the comptroller's office.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is hereby made lawful for the comptroller of public accounts to employ a clerk in that office, at a salary which shall not exceed five hundred dollars per annum, and at that rate; said clerk to be appointed and removed at the pleasure of said comptroller.

Comp. may appoint a clerk

Salary \$500.

Sec. 2. Be it further enacted, That said clerk shall, before entering upon his duties, besides complying with such other requisitions as the comptroller may see proper to prescribe for his own security, take an oath, before some competent judicial officer, faithfully to discharge all such duties in the comptroller's office and connected therewith, as are

Clerk shall take oath.

are or may be confided to or imposed on him; and also such other oaths as are required of public officers, &c.

Sec. 3. And be it further enacted, That all the official acts of said clerk shall be presumed to be by the authority of the comptroller, and shall be taken as done by said comptroller, he being, in all cases, responsible for the same; and the appointment of such clerk shall, in no case, be for a longer time than two years, and not longer than the incumbent making the appointment remains in office. The compensation of said clerk shall be paid on his account, stating the length of time he has served, thereat, on oath, and the correctness certified by the comptroller, and on the warrant of said comptroller on the treasurer.

Character of his acts as clerk.

Approved, February 10, 1852.

[No. 77.]

#### AN ACT

To repeal in part an act entitled "an act providing for the more effectual prosecuting of persons trading with slaves," approved 7th February, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the words "or merchandise," whenever they occur in the second section of an act entitled "an act providing for the more effectual prosecuting of persons trading illegally with slaves," approved 7th February, 1850, be and the same are hereby repealed.

Words repealed.

Approved February 9, 1852.

[No. 78.]

#### AN ACT

To regulate the duties and payment of the quarter-master general of this State, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the quarter-master general of this State to examine from time to time the public arms of every description in the arsenal at Tuscaloosa, including such as are in boxes, and have the same put in such order and condition by cleansing and oiling, if necessary, as will preserve them from damage of every kind.

Duty of Q.M.G.

Sec. 2. Be it further enacted, That the quarter-master general shall be allowed, as compensation for his services, four dollars per day for every day he is actually employed in the duties of his office, which shall be paid upon an account stated, specifying the number of days employed, sworn to by him and certified to be correct; which shall be paid out of any money in the treasury not otherwise appropriated: Provided, The compensation of the quarter-master general shall not exceed one hundred and fiftydollars per annum.

Compensa-  
tion.

Sec. 3. Be it further enacted, That the governor be and he is hereby authorised to cause the public arms to be distributed and portions, as nearly equal as convenient, to be deposited at Montgomery, Huntsville, and Mobile: Provided, The corporate authorities of said cities or towns will stipulate in such manner as the governor may require for the safe-keeping and return of such arms free of expense to the State: Provided, The expense of removal of such arms may be paid by the governor out of the contingent fund.

Public arms  
to be dis-  
tributed.

Proviso.

Proviso.

Sec. 4. And be it further enacted, That such part or portions of the military code of this State as allows a salary of two hundred dollars per annum to the quarter-master general, and all laws and parts of laws conflicting with the provisionsof this act, be and the same are hereby repealed.

Repeals.

Approved, February 10, 1852.

[No. 79.]

#### AN ACT

To change the time of holding the circuit court of Jefferson county, and to extend the term of the circuit court of Shelby county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the circuit court of Jefferson county be begun and held on the last Monday in February and August, in each and every year.

When held  
in Jeffer-  
son.

Sec. 2. Be it further enacted, That hereafter the circuit court of Shelby county commence on the second Monday in March and September, in each year and every year, as now provided by law, and continue for two weeks, unless the business of said court be sooner disposed of.

Shelby.

Sec. 3. Be it further enacted, That all process issued

and made returnable to the circuit court of Jefferson county on the third Monday in March be returnable to the February term of said court, as provided by this act.

Process.

Sec. 4. And be it further enacted, That all laws and parts of laws contrary to the provisions of this act be repealed.

Repeals.

[No. 80.-]

## AN ACT

To enlarge the jurisdiction of the probate court, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the probate courts of this state shall, within their respective counties, have jurisdiction to order the sale of lands in the following cases, in addition to those now provided by law and to order money to be invested in real or personal estate in the cases wherein they are now authorised by law to order a sale of real estate, as well as in the cases provided by this act: First, when it shall appear that any infant, lunatic, or person non compos mentis owns land, and it would be to the interest of such person to sell the same and invest the money in personal estate or put it out at interest. Second, when it shall appear advantageous to invest in real or personal estate the money of infants, lunatics and persons non compos mentis. Third, when said court is satisfied that it will be more advantageous to the interest of the estate of idiots, lunatics, or persons non compos mentis, to sell the real, than it would be to sell the personal estate of such person, either for the purpose of paying debts contracted by such person when of sound mind, or of paying debts contracted for their comfortable maintenance and support whilst of unsound mind. Fourth, when any estate shall be ordered to be kept together for ten years, or for a shorter period, and moneys shall accumulate in the hands of the administrator or guardian not required for the use of the estate, the judge of probate having jurisdiction thereof may order the said moneys to be loaned out or any part thereof to be invested in the purchase of personal or real estate.

Shall  
order  
the sale  
of lands  
in cer-  
tain cases

1st.

2nd.

3rd.

4th.

Sec. 2. Be it further enacted, That the proceedings to effect such sale or investment as is contemplated by this act must be by petition filed by the administrator of such intestate's estate, or by the guardian of such infant, lunatic,

Pro-  
ceedings  
to ef-  
fect  
sale or  
invest-  
ment.



or person non compos mentis, setting forth one of the grounds enumerated in the first section of this act or one of those now required by law; and upon the filing of such petition by such administrator or guardian, it shall be the duty of the court to set a day, not less than forty days from the day on which it is filed to hear the same, and he shall cause citations to issue to the heirs at law of such intestate, if resident in this state, or to the infant or infants, if over the age of fourteen years, when the petition is filed by a guardian; and if such infants are under the age of fourteen years, then to the person who has the custody of them; and in the case of persons non compos mentis and lunatics, to the next of kin of such persons non compos mentis and lunatics, or the person who has charge of them, notifying such heirs at law, infants, or persons in charge of such lunatic or person non compos mentis, of the time and place at which such petition will be heard, and requiring them to appear and answer the same.

Sec. 3. Be it further enacted, That when the persons entitled to notice by the second section of this act are non-residents of this state, such notice must be given by publication in a newspaper for four consecutive weeks, and if their residence is known, by sending to them a paper by mail (postage paid) containing said publication with black lines drawn around the notice.

When persons are non-residents.

Sec. 4. Be it further enacted, That when service is perfected as is hereinbefore provided, and such service is fully proven, the court must appoint a guardian ad litem for the infant defendants to said petition and for such lunatic and person non compos mentis, who shall not be of kin to such petitioner, and who must file an answer denying the allegations of said petition, which answer shall not be sworn to; and no decree must be rendered for such sale until the allegations of the petition are proven by the testimony of at least two creditable persons, to be taken as in chancery cases and filed with the papers in the case.

Court must appoint guardian/

Sec. 5. Be it further enacted, That when a decree for the sale of land is made under the provisions of this act, the court must order the administrator or guardian, as the case may be, to sell said land, after advertising the same for at least thirty days, to the highest bidder, for cash or on time, as the court by its decree may direct. If said land is sold for cash, the administrator or guardian must, upon the payment of the purchase money, make the purchaser such title as the intestate, infant, lunatic, or person non compos mentis, (as the case may be,) had to the land sold; and if

When a decree for sale of land is made, duty of court.

sold on time, such title must be made on the payment of the purchase money, and not before.

Sec. 6. Be it further enacted, That when such sale is made on time, the notes for the purchase money must be made payable to the administrator or guardian, as the case may be, who must within thirty days after the sale make return to the proper court of all their acts and doings under such decree.

When sale  
is made on  
time.

Sec. 7. Be it further enacted, That where money is invested in real or personal estate under the provisions of this act, the guardian or administrator must return to the court making the order an inventory under oath of the property so purchased.

When money  
is invested  
in real or  
personal es-  
tate.

Sec. 8. Be it further enacted, That when a petition is filed under this act and the prayer is refused, the petitioner must pay all costs; if the prayer is granted, the costs must be paid out of the effects of the intestate, infant, lunatic or person non compos mentis, as the case may be.

How costs  
must be paid.

Sec. 9. Be it further enacted, That for the services rendered by a judge of probate under this act, he shall receive a fee of five dollars in each case and no more.

Fee.

Sec. 10. And be it further enacted, That it shall not be lawful for any judge of probate in this State to act as guardian for any minor, idiot or lunatic, in the county in which he may be judge; and in cases where there are two or more applicants for letters of guardianship, by persons equally related, he shall appoint that person, who, in his opinion, will best manage the estate of the ward.

Shall not  
act as guar-  
dian.

In case of  
two or more  
applicants.

Approved, January 31, 1852.

[No. 81.]

# AN ACT

To authorise judges of the probate court to correct mistakes in their courts, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That where lands have been, or may hereafter be sold by a decree of the said court, or of the county court, and said sale has been made bona fide, and possession shall accompany said sale, and it shall be made appear to the satisfaction of said court, that there has been a mistake in describing said land by its numbers, on the application of the purchaser, or those holding under him or her, it shall be the duty of said judge to summon the adminis-

Misdescrip-  
tion of lands.



trator of the deceased, or the representative of said administrator, to appear on a day appointed, and show cause why he should not be decreed to make title to said land.

Sec. 2. Be it further enacted, That on the day set apart for the hearing of said cause, if the facts set out in the first section of this act shall be established to the satisfaction of said judge, he shall decree a title to be made by such administrator or his representative.

How corrected.

Sec. 3. And be it further enacted, That where any administrator or executor shall apply to said court for a decree to sell real estate, the production of the patent or deed shall be sufficient evidence to authorise the court to proceed and hear said application.

Of sale of real estate.

Approved, February 9, 1852.

[No. 82..7

# AN ACT

Relating to the appointment of guardians in certain cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That whenever a petition shall be presented to any judge of probate in this State, praying the appointment of a guardian for the property or estate of any person, setting forth, on oath, that such person is lunatic or non compos mentis, and that he has been so declared by a competent tribunal of the State in which he resides, and in the county where the petition is preferred requiring the care of a guardian the judge of probate of such county shall have jurisdiction of the case, and shall order and give notice, as is now provided for non-resident defendants in chancery; and after such notice has been given, the said judge, having first appointed a guardian ad litem, whose duty it shall be to deny all the allegations of the petition, may proceed to hear the cause upon the proof, and if satisfied that the proof sustains the petition may appoint some suitable person guardian of the property and estate of such lunatic or non compos mentis which is or may be within this State; and such guardian shall give bond and have the same powers, as to such property and estate, and be subject to the same liabilities, as are provided for guardians otherwise appointed, and shall account in the same way.

When guardians for non-resident, lunatic, or person non compos mentis may be appointed.

Approved, February 5, 1852.

/No. 83.-/

## AN ACT

Making appropriations for the years one thousand eight hundred and fifty-two and fifty-three.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated, to be paid to the following persons in the payment of the claims for the years one thousand eight hundred and fifty two and fifty-three:

Appropriations to.

To the governor of the state, the sum of twenty-five hundred dollars per annum:

Executive, State and judicial officers.

To the secretary of state, the sum of twelve hundred dollars per annum:

To the comptroller of public accounts, the sum of two thousand dollars per annum:

To the state treasurer, twelve hundred dollars per annum:

To the judges of the supreme court, each, twenty-two hundred and fifty dollars per annum:

To the chancellors each, fifteen hundred dollars per annum:

To the judges of the circuit courts, each, fifteen hundred dollars per annum:

To the attorney general, four hundred and twenty-five dollars per annum:

Attorney general.

To the solicitor of the first judicial circuit, three hundred and fifty dollars per annum:

Solicitors.

To the remaining solicitors, each, two hundred and fifty dollars per annum:

To the quarter-master general, two hundred dollars per annum:

To the private secretary of the governor, three hundred and fifty dollars per annum:

Gov's. private secretary.

To the adjutant and inspector general, four dollars per day for each day he shall be engaged in the actual discharge and fulfilment of his duties, not to exceed two hundred dollars per annum:

To the adjutant and inspector general.

For the pay of the principal clerk of the senate, and principal clerk of the house of representatives, each, the sum of seven dollars per day during the session:

For the pay of the assistant secretary of the senate, and the assistant and engrossing clerks of the house of representatives, each, the sum of five dollars per day during the session or number of days they served:

Clerks of two houses.

For the pay of such additional clerks as may be employed by the senate and house of representatives, the sum of five dollars per day, each, for the number of days certified by the presiding officer of each house:

To the door keepers of the senate and house of representatives, the sum of five dollars per day, each, during the session:

Doorkeepers.

To the secretary of state, for placing marginal notes to the laws, reading and correcting the proff sheets of the same, copying the journals of both houses of the present session, preparing indexes to the laws and journals, and superintending the printing and distribution of the same, the sum of four hundred dollars; and also one hundred dollars for services in this department of the public business after the adjournment of the last session, and not provided for by appropriation:

Secretary of state for extra services.

To the secretaries of the senate and principal clerk of the house of representatives, the sum of one hundred and fifty dollars, each, for bringing up and completing the journals of the respective houses, arranging and filing away the papers in proper order for the next session of the general assembly.

Clerks of two houses for extra services.

Sec. 2. Be it further enacted, That the sum of ten thousand dollars be and the same is hereby appropriated to defray the contingent expenses of the state government.

Contingent fund.

Sec. 3. Be it further enacted, That the sum of twelve hundred dollars be and the same is hereby appropriated for the purchase of stationery for the general assembly, and executive and state officers, and the judges of the supreme court; and that the comptroller shall draw his warrant upon presentation of the original voucher and a receipt therefor in favor of the secretary of state for that purpose; and the purchase may be made at any place which may be most advantageous.

For stationery.

Sec. 4. Be it further enacted, That the necessary sum for the distribution of the laws and journals of the present general assembly, the laws of congress, and the code, is hereby appropriated; and the comptroller of public accounts shall draw his warrant in favor of the several agents engaged in the distribution, upon their producing the certificate of the secretary of state that the amount is according to contract and that the services have been performed.

Distribution of laws and journals.

Sec. 5. And be it further enacted, That the further sum of one hundred and fifty dollars is hereby appropriated to pay the person appointed to take charge of the capitol and public grounds, unless otherwise provided for.

For capitol and grounds.

Approved, February 10, 1852.

[No. 84.]

## AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance to the decrees of the different chancery courts hereinafter named, the bonds of matrimony heretofore existing between the following named persons be dissolved and held for naught:

That Caroline R. Chiles be divorced from her husband, William T. Chiles, in pursuance to a decree of the chancery court held for the 21st chancery district, middle division, at the January term, 1852.

Chiles  
from  
Chiles.

That John B. Desmond be divorced from his wife, Nancy A. Desmond, in pursuance to a decree of the chancery court for the 21st district, middle division, at the January term, 1852.

Desmond  
from Des-  
mond.

That William H. Lewey be divorced from his wife, Eleanor Lewey, in pursuance to a decree of the chancery court for the 25th district, middle division of the State, at the July term, 1851.

Lewey  
from  
Lewey.

That G. H. Bacchus be divorced from his wife, D. Bacchus, in pursuance to a decree of the chancery court for the first district, southern division of the State, at the January term, 1852.

Bacchus  
from Bac-  
chus.

That Mary L. Huson be divorced from her husband, Frederick J. C. Huson, in pursuance to a decree of the chancery court for the 1st district, southern division, at the January term, 1852.

Huson  
from Husen

That Gabriel W. Ebeltoft be divorced from his wife, Lucinda N. Ebeltoft, in pursuance to a decree of the chancery court for the 1st district, southern division, at the April term, 1851.

Ebeltoft  
from Ebel-  
toft.

Approved, February 9, 1852.

[No. 85.]

## AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance to decrees of the several chancery courts of this State hereinafter named, the bonds of matrimony heretofore solemnised and subsisting between the following named persons be and the same are hereby dissolved and annulled, viz:

That Mary Ann Rodgers be divorced from her husband, Jonathan W. Rodgers, in pursuance to a decree of the chandery court for the 10th district, southern division, at the November term, 1851.

Rodgers  
from Rod-  
gers.

That Thomas J. Taylor be divorced from his wife Emily E. Taylor, in pursuance to a decree of the chancery court for the 15th district, middle division, at the May term, 1850.

Taylor from  
Taylor.

That Rebecca Calhoun be divorced from her husband, Henry P. Calhoun, in pursuance to a decree of the chancery court for the 8th district, southern division, at the November term, 1850.

Calhoun  
from Cal-  
houn.

That Nancy Cotton be divorced from her husband, Cyrus Cotton, in pursuance to a decree of the chancery court for the 14th district, middle division, at the May term, 1851.

Cotton  
from Cotton.

That Lydia Turkett be divorced from her husband, John E. Turkett, in pursuance to a decree of the chancery court for the 40th district, northern division, at the July term, 1850.

Turkett  
from Tur-  
kett.

That Abraham Grinnett be divorced from his wife, Mary Grinnett, in pursuance to a decree of the chancery court for the 34th district, northern division, at the June term, 1851.

Grinnett from  
Grinnett.

That Eli R. Burt be divorced from his wife, Mary Burt, in pursuance to a decree of the chancery court for the 11th district, southern division, at the June term, 1851.

Burt from  
Burt.

Approved, January 6, 1852.

[No. 86.]

# AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance to decrees of the several chancery courts in this State hereinafter mentioned, the bonds of matrimony heretofore solemnised and subsisting between the following named persons be and the same are hereby dissolved and annulled, viz:

That Belinda McDonald be divorced from her husband, M Albert W. McDonald, in pursuance to a decree of the chancery court for the 18th district, middle division, at the September term, 1850.

McDonald  
from McDon-  
ald.

That Margaret Jane Wallace be divorced from her husband, John Wallace, in pursuance to a decree of the chancery court for the 20th district, middle division, at the June term, 1851.

Wallace  
from Wal-  
lace.

That Duncan Cunningham be divorced from his wife, Elizabeth Cunningham, in pursuance of a decree of the chancery court for the 9th district, southern division, at the \_\_\_ term, 1850.

Cunning-  
ham from  
Cunningham.



That George R. Grimes be divorced from his wife, Mary C. Grimes, in pursuance of a decree of the chancery court for the 10th district, southern division, at the November term, 1850.

Grimes  
from  
Grimes.

That John A. Dunning be divorced from his wife, Amanda A. Dunning, in pursuance of a decree of the chancery court for the 4th district, southern division, at the March term, 1851.

Dunning  
from Dun-  
ning.

That Jasper Nelins be divorced from his wife, Hester Ann Nelins, in pursuance of a decree of the chancery court for the 1st district, southern division, at the April term, 1851.

Nelins  
from  
Nelins.

Approved, December 16, 1851.

[No. 87.]

# AN ACT

To divorce certain persons therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance to decrees of the several courts of chancery in this State hereinafter mentioned, the bonds of matrimony heretofore solemnised and subsisting between the following named persons be and the same are hereby dissolved and annulled, viz:

That James L. G. McCullough be divorced from his wife, Mary McCullough, in pursuance to a decree of the chancery court for the 14th district, southern division, at the July term, 1850.

McCullough  
from McCul-  
lough.

That Mary A. L. Donalson be divorced from her husband, John A. Donalson, in pursuance to a decree of the chancery court for the 32d district, northern division, at the June term, 1851.

Donalson  
from Donal-  
son.

That william C. Brown be divorced from his wife, Ellenor Brown, in pursuance of a decree of the chancery court for the 23d district, middle division, at the July term, 1851.

Brown from  
Brown.

That Robert Carver be divorced from his wife, Mary T. Carver, in pursuance of a decree of the chancery court for the 23d district, middle division, at the July term, 1851.

Carver from  
Carver.

That Caroline D. Nunnalee be divorced from her husband, Walter Nunnalee, in pursuance to a decree of the chancery court for the 15th district, middle division, at the May term, 1851.

Nunnalee  
from Nunna-  
lee.

That Martha Jane Royster be divorced from her husband, Henry C. Royster, in pursuance to a decree of the chancery court for the 40th district, middle division, at the July term, 1851.

Royster  
from Roys-  
ter.

That Isabella L. Evans be divorced from her husband, Henry F. Evans, in pursuance to a decree of the chancery court for the 40th district, middle division, at the May term, 1851.

Evans from  
Evans.

That Elizabeth P. Wood be divorced from her husband, George W. Wood, in pursuance of a decree of the chancery court for the 15th district, middle division, at the May term, 1851.

Wood from  
Wood.

That William Foreman be divorced from his wife, Malinda Foreman, in pursuance to a decree of the chancery court for the 40th district, northern division, at the February term, 1851.

Foreman  
from Fore-  
man.

That Leonora P. Butler be divorced from her husband, John D. Butler, in pursuance to a decree of the chancery court for the 14th district, middle division, at the October term, 1851.

Butler  
from But-  
ler.

Sec. 2. And be it further enacted, That the name of the said Leonora P. Butler be changed to that of Leonora P. Langdon, and that the names of her children, Sarah M. Butler, Eliza T. Butler and Edward Butler, be changed to that of Sarah M. Langdon, Eliza T. Langdon and Edward Langdon.

Name  
changed.

That Martha A. Nix be divorced from her husband, John D. Nix, in pursuance to a decree of the chancery court for the 18th district, middle division, at the September term, 1850.

Nix from  
Nix.

That Nancy E. Winn be divorced from her husband, Robert Winn, in pursuance to a decree of the chancery court for the 27th district, middle division, at the August term, 1851.

Winn from  
Winn.

That Rose Debrier be divorced from her husband, Antone Debrier, in pursuance to a decree of the chancery court for the 1st district, southern division, at the January term, 1851.

DeBrier  
from DeBrier

That Sarah E. Cook be divorced from her husband, Joseph B. Cook, in pursuance of a decree of the chancery court for the 21st district, middle division, at the December term, 1850.

Cook from  
Cook



That Benjamin S. Stephenson be divorced from his wife Nancy Stephenson, in pursuance to a decree of the chancery court for the 16th district, middle division, at the May term, 1851.

Stephenson from Stephenson.

That Amanda F. Clower be divorced from her husband, Lemuel H. Clower, in pursuance to a decree of the chancery court for the 16th district, middle division, at the May term, 1851.

Approved, January 31, 1852.

[No. 88.]

# AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance of the decrees of the several chancery courts in this State hereinafter mentioned, the bonds of matrimony heretofore solemnised and subsisting between the following named persons be and the same are hereby dissolved and annulled, viz:

That Wilson Collans be divorced from his wife, Betsey Collins, in pursuance of a decree of the chancery court for the 9th district of the southern division, at the November term, 1851.

Collins from Collins.

That Mahala Taylor be divorced from her husband, James Taylor, in pursuance of a decree of the chancery court for the 23d district, middle division, at the July term, 1851.

Taylor from Taylor.

That William J. Ranton be divorced from his wife, Caroline Ranton, in pursuance to a decree of the chancery court for the 9th district, southern division, at the November term, 1851.

Ranton from Ranton.

That Pinckney Corlee be divorced from his wife, Malinda Corlee, in pursuance to a decree of the chancery court for the 14th district, middle division, at the May term, 1851.

Corlee from Corlee.

That Robert Smith be divorced from his wife, Joannah Smith, in pursuance to a decree of the chancery court for the 20th district, middle division, at the June term, 1851.

Smith from Smith.

That Frances DeNopie be divorced from her husband, William A. Nopie, in pursuance to a decree of the chancery court for the 38th district, northern division, at the special August term, 1851.

Nopie from Nopie.

That Charles H. Sims be divorced from his wife, Martha

Sims from Sims.

/No. 88./

J. Sims, in pursuance to a decree of the chancery court for the 15th district, middle division, at the May term, 1851.

That William Covington be divorced from his wife, Lucinda Covington, in pursuance to a decree of the chancery court for the 31st district, northern division, at the May term, 1851.

Covington  
fr'm  
Covington

That James Clark be divorced from his wife, Nancy Clark, in pursuance of a decree of the chancery court for the 20th district, middle division, at the June term, 1850.

Clark  
from  
Clark

That Micajah N. Pope be divorced from his wife, Sarah Jane Pople, in pursuance to a decree of the chancery court for the 31st district, northern division, at the May term, 1851.

Pope  
from  
Pope

That Ellen L. Jones be divorced from her husband, Joel Jones, in pursuance to a decree of the chancery court for the 40th district, northern division, at the July term, 1850.

Jones  
from  
Jones

That James Franklin be divorced from his wife, Nancy E. Franklin, in pursuance of a decree of the chancery court for the 40th district, northern division, at the July term, 1850.

Franklin  
from  
Franklin

That John L. Watts be divorced from his wife, Tabitha Watts, in pursuance of a decree of the chancery court for the 41st district, northern division, at the August term, 1850.

Watts  
from  
Watts

That Armstrong Mitchell be divorced from his wife, Sarah Mitchell, in pursuance to a decree of the chancery court for the 11th district, southern division, at the July term, 1850.

Mitchell  
from  
Mitchell

Approved, December 16, 1851.

/No. 89./

## AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance to the decrees of the different chancery courts of this State hereinafter mentioned, the bonds of matrimony heretofore solemnised and subsisting between the following persons be and the same are hereby dissolved and held for naught, in pursuance to said decrees of said courts of chancery:

That Martha Chapman be divorced from her husband, John Chapman, in pursuance of a decree from the chancery court for the 9th district, southern division, at the November term, 1851.

Chapman  
from  
Chapman

That Margaret Christian be divorced from her husband, Samuel P. Christian, in pursuance of a decree of the chancery court for the 4th district, southern chancery division, at the March term, 1851.

Christian  
from  
Christian

That Archelous M. Braddy be divorced from his wife, Palmyra S. Braddy, in pursuance of a decree of the chancery court for the 4th district, southern division, at the March term, 1851.

Braddy  
from  
Braddy

That Ann Hill be divorced from her husband, Elijah Hill, in pursuance to a decree of the chancery court for the 10th district, of the southern division, at the November term, 1851.

Hill  
from  
Hill

That Dilmus L. Osborn be divorced from his wife, Amanda L. Osborn, in pursuance to a decree of the chancery court for the 10th district of the southern division, at the November term, 1851.

Osborn  
from  
Osborn

Approved, January 30, 1852.

No. 90.

#### AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the bonds of matrimony heretofore subsisting between Pleasant M. Lamay and Elizabeth W. Lamay be dissolved and held for naught, and that the said Pleasant M. be divorced from his wife Elizabeth W. in pursuance to the decree of the chancery court for the 30th district, northern division, April term, 1851.

Lamay  
from  
Lamay

That William Gage be divorced from his wife Mary Ann Gage, in pursuance to a decree of the chancery court for the 30th district, northern division, at the May term, 1851.

Gage  
from  
Gage

Approved, February 10, 1852.

No. 91.

#### AN ACT

To divorce the persons herein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance of the decrees of the different courts of chancery of this State hereinafter referred to, the bonds of matrimony heretofore solemnised and subsisting between

the following named persons be and the same are hereby dissolved and held for naught:

That Gilbert Ogley be divorced from his wife Barthenia, in pursuance to a decree of the chancery court for the 27th district, middle division, at the August term, 1851.

Ogley  
from  
Ogley

Also, John Barnes from his wife Dorcas, in pursuance of a decree of the chancery court for the 10th district of the southern chancery division, November term, 1851.

Barnes  
from  
Barnes

Also, William F. Majors from his wife Percilla, in pursuance to a decree of the chancery court for the 10th district of the southern chancery division, at the November term, 1851.

Majors  
from  
Majors

Approved, January 30, 1852.

No. 92.

#### AN ACT

To divorce certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance of a decree of the chancery court of the State of Alabama, the bonds of matrimony heretofore existing between the following named persons be and the same are hereby dissolved, to wit:

Clarissa E. Allen from Royal D. Allen, decreed at August term, 1851, in the 37th district of the northern division. Also, John N. Parish from Nancy Ann Parish, decreed at September term, 1851, for the 18th district of the middle division of the State of Alabama.

Allen  
from  
Allen

Approved, February 9, 1852.

#### AN ACT

No. 93.

To divorce Cesarine V. Lestrade from her husband Jacques Lestrade; Sarah M. Hazzard from Robert F. Hazzard; Elizabeth T. Gray from Augustus P. Gray, and others.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened. That in pursuance to the decrees of the several courts of chancery in this state hereinafter mentioned, the bonds of matrimony heretofore solemnised and subsisting between the following named persons be and the same are hereby dissolved and annulled, viz:

That Cesarine V. Lestrade be divorced from her husband,

Lestrade  
from  
Lestrade



Jacques Lestrade, in pursuance to a decree of the chancery court for the 1st district, southern division, at the January term, A. D. 1852.

That Sarah M. Hazzard be divorced from her husband, Robert F. Hazzard, in pursuance to a decree of the chancery court for the 1st district, southern division, at the January term of said court, 1852. Hazzard from Hazzard

That Elizabeth T. Gray be divorced from her husband, Augustus P. Gray, in pursuance of a decree of the chancery court for the 18th district, middle division, at the June term of said court, 1851. Gray from Gray

That Semny Boner be divorced from his wife, Fanny Boner, pursuant to a decree of the chancery court for the 1st district, southern division, at the January term of said court, 1852. Boner from Boner

That Francis C. Gosslin be divorced from her husbandm Peter C. Gosslin, pursuant to a decree of the chancery court for the 30th district, nothern division, at the Appil term of said court, 1851. Gosslin from Gosslin

Approved, February 9, 1852.

No. 94

# AN ACT

To divorce Sarah A. Brown and others.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in pursuance of the different decrees of the various chancery courts of this State, the bonds of matrimony heretofore existing between the persons therein named be and the same are hereby dissolved:

That Sarah A. Brown be divorced from her husband, George G. Brown, in pursuance of a decree of the chancery court for the 36th district, northern division, June term, 1850. Brown from Brown

That Jane R. Lee be divorced from her husband, Roland Lee, in pursuance to a decree of the chancery court for the 11th district, southern division, at the July term, 1850. Lee from Lee

That Catharine Byrnes be divorced from her husband, Robert Byrnes, in pursuance to a decree of the chancery court for the 1st district, southern division, at the January term, 1851. Byrnes from Byrnes

That William F. Williams be divorced ffrom his wife, Tempe Williams, in pursuance to a decree of the chancery court for the 32nd district, northern division, at the December term, 1851. Williams from Williams

That Thomas Johnson be divorced from his wife, Mary Johnson  
 Johnson, in pursuance to a decree of the chancery court from  
 for the 18th district, southern division, at a term thereof, Johnson.  
 1851.

Approved, February 9, 1852.

[No. 95.]

AN ACT

To divorce David A. Malone from his wife, Elizabeth A.  
 Malone.

Sec. 1. Be it enacted by the Senate and House of Re- Malone  
 presentatives of the State of Alabama in General Assembly from  
 convened, That David A. Malone be divorced from his wife, Malone.  
 Elizabeth A. Malone, in pursuance to a decree of the chan-  
 cery court for the 37th district of the northern division, at  
 the June term, 1850, and that said marriage be held for  
 naught.

Approved, January 29, 1852.

[No. 96.]

AN ACT

To divorce Moses Upchurch from his wife, Lucinda Up-  
 church.

Sec. 1. Be it enacted by the Senate and House of Represen-  
 tatives of the State of Alabama in General Assembly convened.  
 That the bonds of matrimony heretofore solemnised and Upchurch  
 subsisting between Moses Upchurch and Lucinda Upchurch from Up-  
 his wife, be and the same are hereby dissolved; and that church.  
 Moses Upchurch be divorced from his wife, Lucinda Up-  
 church, in pursuance of a decree of the chancery court  
 for the southern division, held for the 2d district, at the  
 December term, 1851.

Approved, February 9, 1852.

666

[No. 97.]

AN ACT

To divorce Jones Evit from his wife, Mary Evit, and Sarah  
 Reese from her husband, John C. Reese.

Sec. 1. Be it enacted by the Senate and House of Represen-  
 tatives of the State of Alabama in General Assembly convened,  
 That the bonds of matrimony heretofore subsisting between Jones  
 Evit and his wife, Mary Evit, be and the same are Evit from  
 Evit.



hereby forever dissolved, so far as the said Jones Ewit is concerned, pursuant to a decree of the chancery court for the 37th district of the northern chancery division of Alabama, rendered at the August term, 1851, of said court.

Sec. 2. And be it further enacted, That the bonds of matrimony heretofore subsisting between Sarah Reese and her husband, John C. Reese, be and the same are hereby forever dissolved, so far as the said Sarah Reese is concerned, pursuant to a decree of the chancery court for the 30th district, northern chancery division of Alabama, rendered at the April term, 1851 of said court.

Reese  
from  
Reese.

Approved, February 9, 1852.

[No. 98.]

### AN ACT

To legalise a certain marriage therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the marriage heretofore solemnised and now subsisting between William Covington and Mary Covington, his wife, formerly Mary Tucker, be and the same is hereby legalised and made valid.

Legal-  
ised.

Sec. 2. Be it further enacted, That all the issue of said William Covington and his wife Mary born before the passage of this act, be and the same are hereby declared legitimate to all intents and purposes.

Issue  
legiti-  
mated.

Sec. 3. And be it further enacted, That the said parties be and they are hereby exempted from all pains and penalties, fines and imprisonments incurred by them or to which they may be liable in consequence of any thing previous to or now subsisting in said parties, or in reference to illegality of said marriage.

Exempt  
from  
Penalty.

Approved, February 10, 1852.

[No. 99.]

### AN ACT

To legalise a certain marriage therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the marriage heretofore solemnised and now subsisting between B. J. T. Harvell and his wife, Jane E. L. Har-

Legalised

vell, formerly Jane E. L. Lewis, be and the same is hereby legalised and made valid, and that all the issue of said marriage born before the passage of this act, be and the same are hereby declared legitimate to all intents and purposes.

Issue legitimated.

Sec. 2. And be it further enacted, That the said parties be and they are hereby exempted from all pains, penalties, fines and imprisonments incurred by them or to which they may or might have been liable in consequence of the illegality of the said marriage.

Exempt from penalty.

Approved, December 22, 1851.

(No. 100.)

# AN ACT

To legalise a certain marriage therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the marriage heretofore solemnised and now subsisting between Elijah M. Owens and Nancy A. Hinson, of Coosa county, be and the same is hereby legalised and made valid.

Legalised.

Sec. 2. And be it further enacted, That the said parties be and they are hereby exempted from all pains and penalties, fines and imprisonments incurred by them or to which they may be liable in consequence of the illegality of said marriage.

Exempt from penalty.

Approved, January 29, 1852.

(No. 101)

# AN ACT

To change the names of certain persons therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened. That from and after the passage of this act, the names of Alexander Hall, Elijah Hall, and Hugh L. White Hall, of the county of Jackson, be and the same are hereby changed to those of Alexander Toney, Elijah Toney, and Hugh L. White Toney, and they are hereby made legal heirs of Elijah Toney; and that they be entitled to all the rights and privileges of lawfully begotten children of said Elijah Toney, and be capable of taking, by inheritance or otherwise, any property, real or personal, which may descend to them as such.

Changed Hall to Toney.

Made heirs.

Sec. 2. And be it further enacted, That the name of Alexander Simpson, of the county of Jackson, be and the same is hereby changed to William A. Brooks, who, under that name, shall be constituted a legal heir of Dillard Brooks, and shall be entitled to receive and inherit property as a lawful heir of the said Dillard Brooks.

Changed.  
Simpson to  
Brooks.

Made heir.

Approved, February 10, 1852.

(No. 102.)

AN ACT

To change the names of certain persons therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the name of Eliza Caroline Nettles, of the county of Wilcox, be and the same is hereby changed to that of Eliza Nancy Rebecca Marshall, and she is hereby made a legal heir of Charles R. Marshall and Rachael P. Marshall; and that she be entitled to all the rights and privileges of lawfully begotten children of the said Charles R. Marshall and Rachael P. Marshall, and capable of taking, by inheritance or otherwise, any property, real or personal, which may descend to her as such.

Changed.  
Nettles to Marshall.

Made heir.

Sec. 2. Be it further enacted, That from and after the passage of this act, the name of Sarah Isabella Scull, an adopted daughter of David Kennedy and Sarah W. Kennedy, his wife, be and the same is hereby changed to Sarah Isabella Kennedy, by which last name she shall hereafter be known; and she may inherit any estate of the said David Kennedy and Sarah, his wife, as fully and effectually as if she were their child, born in lawful wedlock.

Scull to Kennedy.

May inherit estate.

Sec. 3. Be it further enacted, That the name of William C. Philips, of Walker county, be and the same is hereby changed to William C. Earnest; and that he be made capable of inheriting from James Earnest, of said county, as if he were the lawfully begotten child of said James Earnest.

Philips to Earnest.

Sec. 4. Be it further enacted, That the name of Milly Shaw, of Walker county, be and the same is hereby changed to Milly Furguson; and that she is hereby made capable in law of inheriting from Henry Furguson, of said county, as if she were the lawfully begotten child of said Henry Furguson.

Shaw to Furguson.

Sec. 5. And be it further enacted, That from and after the passage of this act, the name of Martha Ann Sexton, of the county of Macon, be and the same is hereby changed to that of Martha Ann Allen, and she is hereby made the legal heir of Lovick P. Allen, of said county; and that she be entitled to all the rights and privileges, as if she was the lawfully begotten child of the said Lovick P. Allen, and be capable of taking, by inheritance of otherwise, any property real or personal, which may descend to her as such.

Approved, February 10, 1852.

Sexton to Allen.

(No. 103)

# AN ACT

To regulate the transfer of stock in banks, insurance companies and railroads.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That wheresoever shares of the capital stock of any of the corporations, companies, or associations aforesaid, shall be held by any trustee, mortgagee, feme covert, and the certificate shall issue to such party without any qualification, restriction, or declaration of trust, or uses in the same, that the transfer of such stock by such trustee, mortgagee, or feme covert, shall be so far operative as to exonerate the corporation, company, or association, from any liability for permitting or suffering the same or of paying the dividends to such transferee: Provided, however, That the equitable or legal rights of any claimant to such stock, or the dividends therefrom, against the transferrer or his assigns shall not be in any manner impaired by this act.

Effect as to corporation of transfer of certain stocks.

Sec. 2. Be it further enacted, That the transfers of stock in such corporation companies and associations, by executors, administrators or guardians, which shall legally stand in the name of their testators, intestate or wards, shall be operative to the extent of exonerating the corporation from liability for suffering the same or recognising the validity of the transfer: Provided, however, That this act shall not impair the right of the parties in interest against any party to the transfer or to the holder of the stock.

Transfers by executors, &c.

Sec. 3. Be it further enacted, That the provisions of the second section of this act shall apply to cases of transfer by executors, administrators, or guardians, legally appointed in either of the states of the union.

Extent of application.

Sec. 4. Be it further enacted, That payment of dividends by such corporations, companies, or associations, to

Dividends.

executors, administrators, guardians, or legal assigns, duly and legally constituted, in either of the states of the union, shall be operative as payments to such representatives appointed by the courts of this state: Provided, however, That this act shall only be extended to defining and restraining the liability of the banks, companies or associations above specified.

Sec. 5. And be it further enacted, That when a lien has been or may be created upon the stock standing in the names of a debtor to any bank, joint stock company, or insurance or rail road corporation, under their charters, by-laws, or by contract with any officer of the same, that the said corporation may enforce the same after thirty days' notice to the party, or his personal representative, of their intention, by selling the same at public auction to the highest bidder at the court house where the same is located; but in all such cases, publication of the time, place and terms of sale shall be made twice a week, for four weeks, in one or more papers near the place of sale.

Liens.

Approved, February 10, 1852.

(No. 104)

# AN ACT

To extend the charter of the Mobile bank.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the powers, privileges and capacities heretofore granted to the said bank of Mobile by virtue of its original act of incorporation, and of the several acts extending the same and amendatory thereof, are hereby continued in force for the term of twenty years from the expiration of the present charter of said bank: Provided, That the said bank shall in no case charge more than six per cent. per annum on its loans or discounts, except in cases of settlement made to secure bad or doubtful debts: And provided further, That the said bank shall receive on deposit the funds of the county or city of Mobile and pay out the same in such amounts as may be drawn for, for which it shall receive no compensation.

Charter extended.

Proviso.

As to rate of interest.

Sec. 2. And be it further enacted, That the commissioner and trustee is hereby authorised to arrange with said bank the amount due to it by the state, charging the said bank with one hundred thousand dollars as a bonus for said extension of charter, and provided that the amount due upon said bonus shall be paid in sums not less than five thousand dollars per annum.

Comm'r and trustee shall settle with bank.

Approved, February 9, 1852.

(No. 105.)

## AN ACT

To incorporate the Northern Bank of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a bank be established in the town of Huntsville, the capital stock of which shall not exceed eight hundred and thirty-four thousand dollars, divided into shares of one hundred dollars each; three-fifths of which capital may be subscribed for by individuals and two-fifths of which shall be reserved for the State of Alabama.

Capital stock  
and location.

2-5ths reserved  
for state.

Sec. 2. Be it further enacted, That subscriptions for stock in said bank shall be opened in such places as the commissioners to be appointed for receiving subscriptions to stock may designate, on the first Monday in April next, under the management of nine commissioners, to be appointed by the governor, and who shall have authority to receive individual subscriptions for shares of stock, not to exceed the sum of five hundred thousand dollars. The said commissioners, or a majority of them, shall keep their books of subscriptions open for the term of thirty days, unless the said amount of five hundred thousand dollars be sooner subscribed; but the books shall in every event be kept open for ten days. The said commissioners shall give at least thirty days' previous notice of the opening of said books, by advertisement in at least five public newspapers publishes in this State and elsewhere, in their discretion; and they shall keep a correct record of their proceedings.

Comm'rs to be  
app'd by gov. to  
open books for  
subscription of  
capital stock.

Sec. 3. Be it further enacted, That at the time of admitting such subscriptions for stock, the said commissioners shall require from the subscribers the sum of ten dollars for each share subscribed; the subscribers shall further pay an installment of twenty dollars per share within ninety days after the day of first opening said books; of twenty dollars per share within six months after said opening day; twenty dollars per share within eight months after said opening day; (and all payments of stock shall be made in gold or silver coin;) twenty dollars per share within ten months after said opening day; and ten dollars per share within one year from said opening day; but any subscriber may if he thinks proper pay in his subscription at earlier days than above limited; and in such case, interest shall be equalised with the other stockholders upon equitable principles. The said commissioners shall deposit all moneys received by them for safe-keeping in such bank or other place of deposit as the governor may direct, or in de-

Paying sub-  
scription of  
stock regulated.

Duty of com'rs.



fault of such direction, as the commissioners may select, until the said new bank shall go into operation, after which payment shall be received by the bank itself. The commissioners shall have power to fill vacancies occurring in their own body by death, absence, or refusal to act, until thier duty is performed.

May fill vacancies.

Sec. 4. Be it further enacted, That whenever the sum of two hundred thousand dollars shall have been subscribed to the stock of said bank, whether by individuals alone or by individuals and the State of Alabama combined, or in any other sum not exceeding in the whole eight hundred and thirty-four thousand dollars, and after the closing of the books of subscription, and after half of the capital stock subscribed shall have been actually paid in gold and silver, the said bank may elect its officers under the following conditions towit: The president and directors of said bank thus appointed shall without loss of time make the necessary arrangements to put the bank in operation so soon as pursuant to the provisions of this act the bank shall possess in gold and silver coin one-half of the capital stock subscribed; but the said bank shall under no pretext whatever commence its banking operations by discounting bonds, bills or notes, by loaning money, or putting into circulation its own notes, until it shall actually and in good faith have in possession, of its own absolute property in gold and silver, one-half of the whole amount of the capital stock subscribed, and shall have returned to the governor of this state and account thereof, verified by the oath or affirmation of the president or cashier for the time being; nor shall the said bank so commence its operations until the governor, satisfied by the return aforesaid and by such other evidence as may be offered, shall issue his proclamation declaring that the return aforesaid had been duly made, and that it appeared to his satisfaction that said company had of their own absolute property the amount in gold and silver aforesaid, were authorised under the provisions of this act to commence their banking operations as aforesaid. If said bank without actually and in good faith having of its own property the amount of gold and silver as aforesaid, or without having made a return thereof as aforesaid, or without the proclamation of the governor as aforesaid, shall commence any such bank operations as aforesaid, the charter hereby granted shall be null and void, and the said bank shall be considered to all intents and purposes as an unchartered bank; and if more subscriptions be offered to the commissioners than they are authorised

When the bank may go into operation.

Upon what conditions.

Report shall be made to gov.

Who shall issue his proclamation.

to receive, they shall scale and allow the subscriptions in such mode as they deem equitable, giving in all cases the preference to subscribers who shall be resident citizens of Alabama; and if still necessary, they shall reduce the largest subscriptions so as to form the proper amount of capital stock and no more: Provided, That no other bank shall be allowed to take stock in said bank: Provided further, That no stockholder or company shall at any time cast more than one-third of the votes given at any meeting of said stockholders upon any question that may come before the stockholders of said bank.

Sec. 5. Be it further enacted, That if on closing the books a sufficient capital shall not be subscribed to authorise the bank to go into operation under the terms of this act, the commissioners may again open such books afterwards at such times and places as they may direct, under the same regulations as above provided, until the subscriptions be sufficient. After the bank officers shall have been elected, if the stock is not full, the board of directors shall have power to cause books to be opened from time to time until the stock and capital be full, and to appoint commissioners to receive such subscriptions under such rules as they may prescribe; Provided, Thirty days' notice be given by advertisement, as above prescribed, of the time and place of receiving such subscriptions.

Books for sub.  
may be opened  
a second time.

Sec. 6. Be it further enacted, That the State of Alabama may, when it shall elect so to do, take shares in the capital stock of said bank equal to two-fifths of its amount on paying a proportionate part of the capital and on equal terms with the subscribers, equalising interest on equitable terms with the stockholders as to time; and the said state shall, in case it takes stock, be entitled to a proportion of power in the direction of the bank equal to its proportion of stock therein.

State may take  
2-5th

Sec. 7. Be it further enacted, That the stockholders of the said bank and their successors shall, when a sufficient amount shall have been subscribed and paid in, be and they are hereby created a corporation and body politic by the name and style of the "Northern Bank of Alabama," and shall so continue until the first day of June, eighteen hundred and eighty; and by that name shall be and are declared able and capable in law to have and own, purchase, receive, possess and retain to them and their successors, lands rents, tenements, hereditaments, goods, chattles and effects of whatever kind, nature and quality, moneys, obligations, stocks, bonds, bills, notes, securities and choses in action

Stockholders  
declared a body  
politic and cor-  
porate.

Name and style.  
Duration.

of whatsoever nature; and the same may sell, grant, demise, alien, convey or dispose of; and may sue or be sued, plead and be impleaded, answer and be answered, defend and be defended in any suit, matter or thing depending in any court of law or equity; and shall also have power to make, have and use a common seal, and the same to break, alter and renew at pleasure; also to ordain, establish, alter and repeal by-laws, ordinances and regulations as they may deem necessary and convenient from time to time for the government of said corporation, not being contrary to the constitution and laws of the United States or of the State of Alabama; also to make loans, discounts, and deal in money and notes, bills of exchange, bonds, mortgages and securities of all kinds, to receive deposits, to make and issue bank notes payable on demand to bearer, and to make all contracts and transact all such business as is usually transacted by banks and as are within the scope of banking operations, and generally to do and execute all and singular the acts, matters and things which to them it shall appertain to do as incident to bodies corporate, subject however to the rules and limitations herein contained:

General corporate power.

Provided, The said bank shall not in any case deal in or purchase merchandise, produce, or personal property of any kind, or real estate, except for its necessary banking houses, buildings and purposes, or by way of securing payment of the debts due to it; nor shall it issue or cause to be made for circulation as currency any notes or bills that are not payable on demand.

Proviso.

Sec. 8. Be it further enacted, That the affairs of said bank shall be managed by ten directors, elected annually by the stockholders of said bank and appointed by the governor of the State of Alabama, on behalf of the state, if the state shall subscribe for stock, and if not, then to be elected by the stockholders alone. At all elections the stockholders shall elect their ten directors, or a number proportioned to the number of shares held by them collectively, as the case may be, allowing the state to appoint a number proportioned to its stock; and the directors appointed by the stockholders shall be those who shall have received a plurality of the votes given at elections by stockholders, and they shall vote according to the rates and scale of votes following; Each shareholder for every share he may hold not exceeding twenty-five, may give one vote; for every two shares above twenty-five and under fifty, one vote; for every three shares above fifty and under one hundred, one vote; and for every five shares over one hundred and

To be managed by ten directors.

How elected.

Rules of voting by stockholders.

under one hundred and fifty, one vote; and for every ten shares over one hundred and fifty, one vote; and after the first election no shares shall confer a right to vote which shall not have been holden by the voter three calendar months previous to the election. The stockholders shall be entitled to vote either in person or by proxy; the shares of infants may be voted for by their parents or guardians; if married women, by their husbands or trustees; if corporations, by their president; and copartners or joint owners, by either, unless the other dissent, in which case neither shall vote; and all powers to authorise persons to vote by proxy shall be in writing.

May vote by proxy.

Sec. 9. Be it further enacted, That the first election for directors shall be held so soon as may be after the books of subscription shall be closed and a sufficient number of shares subscribed. The said commissioners appointed to receive subscriptions shall hold said first election on such day as they may appoint, after giving thirty days' notice of the time and place of holding the same; they shall certify to the directors the names of the persons elected, shall hand over their records to them and the moneys subscribed and paid; the said board so elected and appointed by the governor, if the state at any time becomes a stockholder, shall proceed to elect a president from their own number; and the board shall continue in office until the expiration of the second Monday in January following, and until their successors shall enter upon their duties; the subsequent elections for directors shall be held at the banking house on the second Monday in January in each year. The new board elected shall be authorised to enter upon its duties on the day after and continue until the expiration of the second Monday of January next thereafter, and until their successors shall organise and enter upon their duties; the polls shall be held by three stockholders, other than directors, appointed by the board to hold the same; the votes shall be by ballot, under such regulations as the bank shall prescribe, but ten days' notice of such election shall be given in two public newspapers of the county in which said bank is located. No stockholder shall vote at any time while in default of payment of his instalments of stock as required by law and the regulations of the bank.

1st election to be managed by comm'rs.

Directors shall elect a president.

Subsequent election of directors.

Sec. 10. Be it further enacted, That no person shall be a director on the part of the stockholders unless he shall own one thousand dollars' worth of stock in said bank bona fide and as his own property, nor unless he shall be a resident citizen of the state and is not a stock-

Qualifications for directorship.

holder in any other bank; and the directors for the state shall be citizens of the state and shall not own stock in any other bank: Provided, That no director shall become indebted to the bank in a greater sum than the amount of his stock actually paid in.

Sec. 11. Be it further enacted, That in case no election should be made of directors or president at the times provided by this act, the corporation shall not be for such cause deemed dissolved, but such election shall be had so soon as may be thereafter on due notice. The board shall have power to fill all vacancies in the office of president and of directors elected by individual stockholders, and the governor shall fill vacancies on the part of the State, to serve until the next board shall organise. Six months' absence, removal from the State, transfer of stock down to a less sum than one thousand dollars, and any cause that shall prevent due attendance of such officer permanently to discharge the duties, or render him incapable of so doing, shall vacate the seat of such president or director.

Elections not held, no forfeiture.

Sec. 12. Be it further enacted, That the president and directors of said bank shall have power and authority to appoint a cashier and all such officers, clerks, agents and servants as may be necessary from time to time to carry on the business of the bank, and to prescribe their compensation and duties, and to require proper bonds and securities for the faithful discharge of their duties in their discretion, and to issue bank bills payable to bearer on demand at their banking house.

Cashier and clerks may be appointed.

They shall give bonds.

Sec. 13. Be it further enacted, That the shares of stock in said bank shall be assignable and transferable according to such rules as shall be instituted in that behalf by the by-laws and ordinances of the bank, and transfer books shall be kept for that purpose: Provided, That in case of the failure of the bank within six months after any such transfer or sale of stock, the party selling and the party purchasing said stock shall each be held liable for the payment of the debts of the bank in proportion to the stock so transferred: Provided further, That no transfer of stock shall be made so as to vest in any one stockholder a greater number than one-fourth amount of the whole number of shares subscribed for in said corporation: And provided further That the bank shall have power to pass by-laws to prevent the assignment of shares by parties owing debts to said bank passed due, until such indebtedness be paid, and to withhold dividends due to persons so being in default if they deem it proper.

Stock may be transferred.

Proviso.

Proviso.



Sec. 14. Be it further enacted, That if any person or persons, copartnership or body corporate, shall be indebted to said bank as maker, endorser or guarantor, or as drawer or acceptor of any note, bill or bond, upon its face made expressly negotiable, and shall delay payment thereof, the said bank may (move) for judgment and award of execution against such debtor in any court of record in the state where such defendant may reside, or corporation so indebted be located, and judgment shall be thereon rendered, as may be lawful and proper: Provided, That the defendant in any such case shall have at least thirty days' personal notice of such motion before the same is made, specifying what the demand is: Provided also, That at the time of making such motion the bank shall produce and file a certificate of the president or cashier, under the seal of the bank that the debt claimed is really and bona fide the property of the bank: Provided further, That if any defendant shall appear and contest the claim, the court shall require the bank to file its declaration and the defendant his pleas, and to cause issue to be joined in law or fact, to be tried instanter or during the term, as the court may direct, by jury or by the court, as the case may be, unless on sufficient cause shown it be necessary to continue the cause; and the court shall give judgment as may be proper: And provided further, That the summary remedy thus given shall not preclude any other mode of redress which may be lawful to enforce the rights of the bank.

Power of the bank in recovering debts regulated.

Proviso.

Proviso.

Proviso.

Proviso.

Sec. 15. Be it further enacted, That the said remedies given for the collection of debts due the bank shall be reciprocal for and against the bank, and in motions against the bank no certificate shall be required to be filed as above set forth; and the courts of record in the county in which the said bank is located having jurisdiction, shall hear motions for the recovery of all debts due by said bank; and in all suits against said corporation, service of process on the president or cashier shall be sufficient to bring the defendant into court.

Sec. 16. Be it further enacted, That the said bank shall be subject to the following rules and regulations, and they are declared to be fundamental articles in the constitution of the said corporation, to-wit:

Rules declared, fundamental articles of the corporation.

Article 1. The bank shall not commence operations until half of the capital stock subscribed for be actually paid in gold or silver, which amount shall in no case be less than one hundred thousand dollars.

Time of commencing operations.

Article 2. That the state and individual stockholders, or



or any copartnership or body politic, having shares in said bank shall be bound respectively for all the debts of the bank in proportion to their stock therein; and this provision shall in no wise affect or impair the provisions of the 13th section of this act.

Liability  
of stock-  
holders.

Art. 3. The bank shall not be authorised to issue or have in circulation at any one time, notes or bills of the bank to an amount exceeding three times the amount of its capital stock actually paid in; and in case of an issue greater than herein allowed, the president and directors under whose administration it may happen shall be liable for the same in their natural and private capacities, and actions may be brought against them, or either of them, in any court by any creditor of said corporation, and may be prosecuted to judgment, and condition or agreement to the contrary notwithstanding; but the corporation shall not on account of this provision be less liable and chargeable with said excess: Provided, That the president and such of said directors who may have been absent when said excess was contracted or created may respectively exempt themselves from being so liable by forthwith giving notice of the fact and their absence or dissent to the stockholders, at a general meeting which they shall have power to call for that purpose.

Circula-  
tion re-  
stricted.

Liability  
and Penalty  
for excess.

Rule 1. The bank may at its option receive in payment or on deposit the notes of the banks of other states, but shall not pay out the same on loans, checks, orders, drafts, or discounts.

Of deposits.

Rule 2. The bank shall be required to procure and always keep on hand gold and silver in proportion of not less than one-fourth of the amount of the bills it shall have in circulation, and if withdrawn, shall immediately proceed to replace the deficiency.

Gold and  
silver to  
be kept on  
hand.

Rule 3. No bill or note of a smaller denomination than five dollars shall be issued, recieved or paid out by the bank.

Bills not  
less than \$5.

Rule 4. The bank shall be required to receive money on deposit and pay out the same to order, free of charge, in such sums as the depositors may direct, provided the bank shall not be required to pay deposits in less sums than fifty dollars, nor to receive less sums than one hundred dollars.

Receiving and  
paying out de-  
posits regu-  
lated.

Rule 5. The bank shall not take, retain or receive on its loans or discounts, interest at a greater rate than six per centum per annum; but shall be entitled to legal interest on debts due and unpaid.

Rate of in-  
terest to be  
charged on  
loans.

Rule 6. No director shall receive any emolument, but the president may receive such compensation as the stockholders shall at a general meeting assign him.

Directors shall receive no pay. Presidents may.

Rule 7. No director shall hold his office more than three years out of four in succession, but the president may always be re-elected for the ensuing term.

Eligibility.

Rule 8. Not less than five directors shall constitute a quorum for the transaction of business, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case his place may be supplied by another director, whom under his hand he shall depute for that purpose; and the director so deputed may do and transact all the necessary business belonging to the office of president of said corporation under the name of president pro tem. during the continuance of the sickness or necessary absence of the president.

Quorum for business.

Rule 9. Two-thirds of the whole number of directors shall have power to authorize at any time any three or more of the directors to transact such business of the bank as may be specially confided to them, whose acts shall be as valid as if done by a full board of directors present at the doing thereof; but the directors constituting said two-thirds or more giving such authority shall be liable for all acts done by the said three or more directors as if they were personally present and concurring.

Two-thirds of directors may confide special duties.

Rule 10. All officers of the bank, the president and directors excepted, shall be required before they enter upon the duties of their office to give bond and sufficient security, such as the board shall approve.

Bonds by officers.

Rule 11. Half-yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors, but no dividend shall be paid as profits which shall trench upon the capital of the bank;

Dividends.

Rule 12. Once in every term of three years the directors shall lay before the stockholders at a general meeting for their information, an exact, full and particular statement of the condition and affairs of said bank, showing the particulars of all suspended debts, and shall give all information to them required for a proper understanding of its true condition.

Triennial exhibit to be made by directors.

Rule 13. The directors shall have power to call a general meeting of the stockholders at any time they may deem necessary and expedient; and a number of stockholders not less than thirty, who together shall be proprietors of five hundred shares of stock or upwards, may at any time call a general meeting of the stockholders relative to the

General meeting of stockholders may be called, and how.

institution, giving at least six weeks notice in the newspapers of the town or city in which such bank is located of such meeting, and specifying the purpose of purposes thereof.

Rule 14. The said bank shall make to the comptroller of public accounts a return once in every twelve months of its true situation, showing the amounts of its assets and liabilities, and of what they consist, also a list of the stockholders of said bank, and a list of the shares owned by each.

Annual return  
to be made to  
the comptroller.

Rule 15. The governor of the state shall appoint biennially three commissioners whose duty it shall be to examine the moneys, books, papers and documents of the said bank, and otherwise examine into its condition and make report thereon within two months after their appointment. The bank shall furnish all information to the said commissioners necessary for an accurate examination, and shall pay to said commissioners four dollars per day, each, not exceeding fifteen days each, and the said commissioners shall each make affidavit before an acting justice of the peace that they have not previous to the time of their visit communicated to the officers of said bank the time when they would visit the said bank for the purpose of examination as aforesaid, which said affidavit shall be filed in the office of the secretary of state.

Governor of the  
state shall ap-  
point three com-  
missioners annua-  
lly to examine  
the bank.

Sec. 17. Be it further enacted, That by way of bonus for granting this charter, the said bank shall pay annually into the treasury of the state, on or before the first day of November in each year, and while the bank shall continue banking business, an amount equal to twice the taxation which may be assessed on every hundred dollars of the value of lands for the time being by the state on each share of the stock of the bank, which shall be in lieu and composition of all taxation whatever by the state, county, city or other authority, on the capital stock or business of the bank: Provided, That all real estate owned by the bank shall be subject to any taxes as if held by individuals.

Bonus to be  
paid to the  
state.

Sec. 18. Be it further enacted, That whenever any bill or bills, notes, checks, or other issues of said bank are presented at the counter of the same for redemption, and the bank shall refuse to redeem the same either in gold or silver, the cashier shall write across the back of each bill or bills, checks or other issues the word "protested," with the day and date, and shall sign the same; and all such bills, notes, checks or other issues so protested shall draw twelve per cent, interest from the date of the protest until the same shall be redeemed, together with the interest that may have

Bank failing to  
redeem bills  
shall be protes-  
ted.

Effect of pro-  
test.

accrued thereon; and if any such note, bill, check or other issues be presented to said bank and payment refused, and said officer fail to note the same protested, as above provided, such officer so failing and his securities shall be subject to pay double the amount of the demand offered and refused, to be recovered by the person aggrieved in any court of record in the county where said bank may be located.

Sec. 19. Be it further enacted, That no stockholder of said bank shall receive any loan from the bank either directly or indirectly until the whole amount of his stock shall be paid; and no stockholder, while any portion of his stock is unpaid, shall be otherwise a debtor to said bank, nor shall said bank under any pretext hold any stock purchased by it of the stockholders for more than six months from the date of said purchase.

Loans to stockholders restrained.

Sec. 20. Be it further enacted, That if any debt or demand due from said bank for an amount exceeding one hundred dollars shall remain unpaid for more than ten days after proper demand made for payment, the holder of such debt may file a bill in the chancery court of the county or district in which said bank may be located, for the settlement of all debts of the bank, if he elect so to do; and may on proof by affidavit of such refusal to pay on demand and of the continuance of such refusal made to any chancellor or judge of any circuit court of the state, pray an injunction to restrain the said bank and all its officers from paying out, or in any way transferring or delivering to any person any money or assets of said bank, or incurring any obligation or debt until such order be vacated or modified; and if such chancellor or judge shall be of opinion that the debt is justly due, and that the bank has no just defence against the demand, and if it shall appear expedient and necessary upon the proof presented, in order to prevent fraud and injustice, he shall grant an order for such injunction: Provided, The bank shall have had such reasonable notice of the application as the chancellor or judge may prescribe, and shall not be able to show sufficient cause against the same; and the said judge or chancellor shall then proceed further to enquire, on such further notice as he may prescribe, whether the said bank be clearly solvent or not, and may require the officers of the bank to exhibit any and all of its books, papers, accounts, assets, moneys and effects, and to be examined on oath, touching the sums before him or a reference to be appointed by him, and if it shall appear that the said bank is not clearly solvent, then he may make an order declaring the same to be

Proceedings when b'nk fails to meet its debts.

insolvent, and requiring its affairs to be wound up and settled; and further, if in his opinion the safety of the creditors shall require it, such judge or chancellor may appoint a receiver or receivers to take charge of all the assets of the bank and to close and settle its affairs, and may make all such orders for the accomplishing of the same safely, properly and economically as the case may seem to require; but if it shall appear on such examination that the said bank is clearly solvent, or if there shall appear to be a deficiency of assets, and the bank shall procure and give good security for the payment of any deficiency which may exist, and that the assets shall prove sufficient to satisfy all the debts of the bank to the satisfaction of the judge or chancellor, then no such receiver shall be appointed; and upon the payment of the debt complained of, the injunction and proceedings shall be dismissed. Such order shall be made for the payment of costs as the judge or chancellor shall deem just and proper, and the proceedings shall be returnable and made of record in the chancery court of the county or district in which such bank may be located, and shall be subject to revision and correction by the supreme court as in other cases.

Sec. 21. Be it further enacted, That in case the said bank be found insolvent, and settlement of its affairs be ordered as herein provided, the same shall be done upon bill filed in said chancery court under the orders of the court and rules of chancery; and full distribution shall be made of the assets according to the rights of all parties; but the holders of bank notes and obligations issued by the bank for circulation as money shall be first called in and paid, and shall have priority over other debts due from the bank; and after the assets of the bank are exhausted, if they be not sufficient to pay all debts and liabilities, a further call shall be made on the shareholders in the bank for a further payment of capital over and above the sum of one-hundred dollars of an amount equal to the deficiency, which shall be apportioned among all the shares of stock, as well of the individual shareholders as of the state, and an order shall be made by the court for the payment by each shareholder of the sum or proportion due on his shares of stock; and each shareholder shall pay the sum so assessed to him severally in proportion to his stock, which shall be collected by the receiver and applied; and in case the state shall hold stock in said bank, it shall provide for and pay in its proportion of this additional capital in proportion to the stock so held in said bank, to be applied in like manner.

Proceedings  
when bank is  
insolvent.

Sec. 22. Be it further enacted, That the summary remedy in this act specially given for settling up and closing the affairs of said bank shall apply to the case of insolvency, but shall not be allowed in the case of a suspension only by the bank of specie payments, when and so long as such suspension shall be sanctioned by the general assembly or by the governor of the state during the recess of the general assembly; but nothing in this act contained shall be construed so as to deprive a creditor of said bank from his right to suit in any other appropriate mode of proceedings, or to prevent the general assembly from hereafter regulating, by a general law in relation to banking institutions, the mode of enforcing and satisfying the rights of creditors of said bank: Provided, Any bill holder shall also have the right to move in any court having jurisdiction or before any justice of the peace in the city or county in which said bank is located, as the case may require, for the collection of any bill the payment of which may be refused.

Summary remedy--to what case applicable.

Proviso.

Sec. 23. And be it further enacted, That notwithstanding the expiration of the time for which the said corporation is created, it shall be lawful to use the corporate name, style and capacity for the purpose of suits, and for the final liquidation and settlement of the affairs and accounts of the corporation, for the sale and disposition of its estate, real and personal, and collection of its assets; but not for any other purpose, nor for a period exceeding two years after the expiration of said term of incorporation.

Corporate name may be used after expiration of charter.

Approved, February 10, 1852.

/No. 106./

AN ACT

To amend an act to incorporate the Southern Bank of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Southern Bank of Alabama is hereby authorised to issue and have in circulation at any one time, notes or bills of the bank not to exceed three times the amount of its capital stock actually paid in, and otherwise subject to the regulations and provisions of article 3d, in 16th section, of the charter.

May increase its issued.

Sec. 2. Be it further enacted, That all negotiable bills, bonds, notes, or other obligations discounted by the Southern

Payment of bills



Bank of Alabama, not made negotiable or payable at said bank, but which are made negotiable or payable at any bank in the city of Mobile, shall hereafter, as to the mode of collection, be subject to the same rules and laws provided in the charter of said bank for notes, bills, bonds and other obligations specially made negotiable and payable at said bank.

Sec. 3. Be it further enacted, That the stockholders in the Southern Bank of Alabama shall be entitled at all meetings of the stockholders and all elections for directors, to one vote for every five shares of stock owned by them; and that stockholders owning shares in other banks shall not be ineligible for directors, nor shall directors be ineligible for re-election at any time; Provided, That no stockholder can be a director who is at the same time a director in any other bank.

Vote of stockholders.

Sec. 4. Be it further enacted, That at all elections for directors, a plurality of the votes cast will decide the election; but at all meetings of stockholders, a majority of the stock paid in must be represented, and stockholders can vote by proxy in either case.

Elections of directors.

Sec. 5. And be it further enacted, That this act shall take effect from the passage thereof, and that all acts or parts of acts, in so far only as the same shall or may conflict with the provisions thereof, be and the same are hereby repealed.

Shall take effect.

Approved, February 2, 1852.

[No. 107.]

# AN ACT

To amend the charter of the Southern Bank of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Southern Bank of Alabama may from and after the passage of this act, receive interest upon all of her transactions at the following rate, to-wit: Upon paper running six months or under, not to exceed the rate of six per cent. per annum; upon paper running more than six and not exceeding nine months, not to exceed the rate of seven per cent. per annum; upon paper running more than nine months, not to exceed the rate of eight per cent. per annum: Provided, That all paper held and owned by said bank shall after maturity bear interest at the rate of eight per centum per annum: Provided also, That if the rate of interest shall be

Rate of interest.

Proviso.

reduced in this state during the period of the charter of said Southern Bank, said bank shall in no case charge a greater rate of interest than that fixed by law as the legal rate for the State of Alabama.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repealed.

[No. 108.]

# AN ACT

To amend the charter of the Fulton Insurance Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That any stock in said Fulton Insurance Company of Mobile owned by persons indebted to said company, shall, at the option of the directors of said company, be held as security until the said indebtedness is discharged; and in case of failure or payment of said indebtedness within thirty days after maturity of the same, the directors shall have power to sell said stock, or as much thereof as will satisfy the said indebtedness, by advertising the same for ten days prior to sale, in any newspaper published in the city of Mobile, and without further notice to the owner thereof.

Stock of persons indebted.

How disposed of.

Sec. 2. Be it further enacted, That the Fulton Insurance Company of Mobile be and is hereby authorized to receive intrust or on deposit all funds or money that may be offered to them, whether on interest or otherwise; and that they have power to give acknowledgments for such deposits in such manner and form as they may deem convenient and necessary to transact such business: Provided, That the said company shall issue no certificates or other paper to pass as currency, nor in any wise to exercise banking privileges.

May receive money on deposit.

Sec. 3. Be it further enacted, That all funds or moneys deposited with said company, as above provided for, shall be free from liability for loss or indebtedness arising or growing out of the insurance business of said company.

Exemptions of deposits.

Sec. 4. Be it further enacted, That the amendments hereby made shall take effect from the date of the passage thereof; and all acts or parts of acts (so far only as the same shall or may conflict with the provisions of this act) be and the same are hereby repealed.

Shall take effect.

Sec. 5. And be it further enacted, That besides the lia-

bility of said company for their indebtedness, the stockholders of said company shall be individually liable for the indebtedness aforesaid to the amount of their stock held in said company.

Liability of  
stockholders.

Approved, February 5, 1852.

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AN ACT

[No. 109.]

To amend the charter of the Mobile Marine Rail-way and Insurance Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Mobile Marine Rail-way and Insurance Company be and is hereby authorized to lend its funds on any public stocks of incorporated companies, or upon the stocks of any of the states or that of the United States, or to invest the same in real or personal securities or in the purchase of domestic or foreign exchanges.

May loan money on stocks, &c.

Sec. 2. Be it further enacted, That any stock in said insurance company owned by persons indebted to said company shall, at the discretion of the directors of said company, be held as security until said indebtedness is discharged; and in case of said indebtedness not being paid within thirty days after maturity of the same, the directors of said company shall have power to sell said stock, or so much of the same as will satisfy said indebtedness, by advertising the same for ten days prior to the sale thereof, in any one newspaper published in the city of Mobile, and without any further notice to the owner thereof.

Indebtedness  
of stockholders.

Sec. 3. Be it further enacted, That in case of sickness or necessary absence of the president, he may in writing depute and appoint one of the directors of said company to act as president pro tem., and said president pro tem. shall be authorized for such time to do all or any duties appertaining or belonging to the office of president of said company.

Absence of  
President.

Sec. 4. And be it further enacted, That in case of vacancies occurring in the board of directors of said company, caused by resignation, absence or otherwise, it may be lawful for the remaining directors to fill such vacancies by electing any stockholder qualified according to the requirements of the charter: Provided, That no vacancies can be declared to occur on account of absence, unless such absence extend beyond sixty days, without the sanction of the board

Vacancies.

of directors having first been obtained; and that not less than seven directors, including the president, be present at any meeting to fill vacancies.

Approved, February 7, 1852.

[No. 110.]

AN ACT

To amend the charter of the Merchants' Insurance Company  
of the city of Mobile

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in case of vacancies occurring in the board of directors of the Merchants' Insurance Company of the city of Mobile, caused by resignation or otherwise, it may be lawful for the remaining directors to fill such vacancies by electing any stockholder qualified according to the requirements of the charter: Provided, That no vacancies can be declared to occur on account of absence, unless such absence shall extend beyond three months, without the sanction of the board of directors having been first obtained; and that not less than seven directors, including the president, be present at any meeting to fill vacancies.

Vacancies in  
board.

Sec. 2. Be it further enacted, That any stock in said Merchants' Insurance Company of the city of Mobile owned by persons indebted to said company, shall at the option of the directors of said company be held as security until said indebtedness shall be discharged; and in case of failure of payment of said indebtedness within thirty days after maturity of same, the directors shall have power to sell the said stock, or as much thereof as will satisfy the said indebtedness, by advertising the same for ten days prior to sale, in any newspaper published in the city of Mobile, and without any further notice to the owner thereof.

Stock of in-  
debted stock-  
holders may be  
sold.

Sec. 3. Be it further enacted, That the board of directors of said Merchants' Insurance Company, of the city of Mobile, shall have power to regulate the number of their body necessary to transact the general business of the company.

Power of Bord.

Sec. 4. Be it further enacted, That in case of the sickness or absence of the president of the said company from the city of Mobile, his place may be supplied by another director, whom under his hand in writing he shall depute for that purpose; and the director so deputed may do and transact all the necessary business belonging to the office

Of president.

of president of said company, under the name of president pro tem., during the continuance of the sickness or absence of the president.

Sec. 5. And be it further enacted, That all acts or parts of acts, so far as the same shall or may conflict with the provisions of this act, be and the same are hereby repealed.

Repeals.

Approved, February 3, 1852.

[No. 111.--]

# AN ACT

To incorporate the Mobile Live Stock and General Insurance Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be established in the city of Mobile a company for the purpose of transacting a general insurance business, which company shall be called and known by the name of "The Mobile Live Stock and General Insurance Company;" and all such persons as shall be stockholders, and their successors, shall and may have continued succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defend and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and may change and alter the same at pleasure; and also, they and their successors, by the name, style and title of the Mobile Live Stock and General Insurance Company, shall be in law capable of purchasing, holding and conveying all kinds of estate, whether real or personal. That the capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing the same to three hundred thousand dollars whenever the board of directors deem it expedient, divided into shares of one hundred dollars each, five dollars on each share to be paid in cash at the time of subscribing, and the remainder by such instalments as the directors may appoint, whenever it shall be deemed expedient to call for the same: Provided, That said company shall not commence operations until the one-fourth of the amount of the capital stock shall have been paid in cash: Provided further, That upon increasing the capital stock of said company as here provided for, a proportionate increase of cash payments shall be made at the time of such increase of capital stock.

Established in  
Mobile.

Name and style.

Corporate powers.

Shall have suc-  
cession.

Capital stock.

Proviso.

Sec. 2. Be it further enacted, That subscriptions shall be opened in the city of Mobile for the said shares, under the superintendence of Hope H. Slatter, Price Williams, James B. Elleston, John B. Willey, Henry B. Holcombe and A. G. Parker, or any three of them, which said subscriptions shall continue open until fifty thousand dollars be subscribed; but no share shall entitle the holder to vote at any election unless the same shall have been held bona fide by him or her, at least ten days next immediately before such election.

Commissioners.

Sec. 3. Be it further enacted, That there shall be chosen five directors, who shall hold their office for one year, and until their successors shall be duly qualified, which directors, at the time of their election and during their continuance in office, shall be holders in their own right of at least five shares, and shall be elected annually after the first election, at the office of said company, or any other convenient place in the city of Mobile, and at such time of the day as the president of the company may appoint; of which election notice shall be given in one or more papers published in the city of Mobile; and said election shall be by ballot, and in person or by proxy, and each stockholder shall be entitled for every five shares, to one vote; and if no election takes place on any such day appointed, the president may order the same from time to time until an election be effected.

Organized.

Sec. 4. Be it further enacted, That the directors of the said company, in the first instance, shall be chosen in the following manner, viz: As soon as fifty thousand dollars shall have been subscribed, the said Hope H. Slatter, Price Williams, James B. Elleston, John B. Willey, Henry B. Holcombe and A. G. Parker, before named, shall appoint a place in the city of Mobile for the proceeding to the election of five directors; and it shall be lawful for said election to be then and there holden by the subscribing stockholders, by ballot, under the before mentioned persons, or any three of them, notice of which election to be given in one or more papers printed in the city of Mobile; and the persons then and there chosen shall be the first directors, and shall serve for one year, and until their successors shall be qualified; that they shall meet as soon as convenient after the election, and choose out of their own body a president, who shall serve until another board by election be qualified.

1st board directors, how chosen.

Sec. 5. Be it further enacted, That the directors, or a majority of them, shall have power to make, prescribe and alter such by-laws, rules, and regulations as to them may

Powers of board.



appear needful and proper for the management and disposition of its stock, property, estate and effects: Provided, They shall not be repugnant to the constitution and laws of this state.

Sec. 6. Be it further enacted, That the president and one director, or two directors in the absence of the president, shall have full power and authority, on behalf of the corporation, to make general insurance upon live stock, life, health, fire marine, river freights, moneys, goods, wares, and merchandise generally, and to fix premiums for the same; also to transact all such matters as appertain to an insurance company; and all such policies by them made and subscribed to by the president or two directors, and countersigned by the secretary, shall be binding and obligatory upon the said corporation in like manner and with like force as if under the seal of said corporation.

May make insurance.

Sec. 7. Be it further enacted, That any stockholder after subscribing, who shall neglect or refuse to pay the amount due and unpaid on his stock when called on by the directors, shall forfeit his stock and first payment if not paid within thirty days after a written notice served on him by the secretary of the corporation.

Payment of stock.

Sec. 8. Be it further enacted, That said corporation is hereby authorised to lend its funds on any public stock of incorporated companies, or upon the states or that of the United States, or to invest the same in real or personal securities, or in the purchase of notes, domestic or foreign, exchange or bullion.

May loan money.

Sec. 9. Be it further enacted, That the said corporation be and it is hereby authorised to receive in trust or on deposit all funds or moneys that may be offered to them, whether on interest or otherwise, and that they have power to give acknowledgments for such deposits in such manner and form as they may deem convenient and necessary to transact such business: Provided, That no paper issued by said company shall be in the form of bank bills or circulate as money: Provided further, That nothing herein contained shall be so construed as to authorise said company to exercise banking privileges.

May receive deposits.

Proviso.

Sec. 10. Be it further enacted, That all funds or moneys deposited with said company as above provided for, shall be free from liability for any loss or indebtedness arising or growing out of the insurance business of said corporation.

Free from liability.

Sec. 11. Be it further enacted, That in case of vacancies occurring in the board of directors of said company, it may be lawful for the remaining directors to fill such vacancies.

Vacancies.

cies by electing any stockholders qualified according to the requirements of the charter.

Sec. 12. Be it further enacted, That any stock in said corporation owned by any person or persons indebted to said company, whether as principal or security for others, and whether said indebtedness be due or has not yet matured, shall, at the option of the directors of said company, be held as security until said indebtedness is discharged; and in case of failure of payment of said indebtedness within twenty days after maturity of the same, the directors shall have power to sell said stock, or as much thereof as will satisfy said indebtedness, by advertising the same for ten days prior to sale in any newspaper published in the city of Mobile, and without any further notice to the owner thereof.

Stock may be sold.

Sec. 13. Be it further enacted, That all contracts for the payment of money by the said corporation shall be signed by the president and countersigned by the secretary.

Contracts

Sec. 14. Be it further enacted, That the amount of capital stock actually paid in and property of said company shall at all times be liable to the same rates of taxation as the property of individuals or like corporations in this state.

Liable to taxations.

Sec. 15. Be it further enacted, That the board of directors shall have power to establish such agencies as they may deem as expedient and for the interest of the corporation.

Agencies.

Sec. 16. Be it further enacted, That this corporation shall have privilege to organise and commence operations as soon as the terms of this charter are complied with.

When to commence.

Sec. 17. Be it further enacted, That in addition to the liabilities of said company in its corporate character, the stockholders shall be liable for the indebtedness of said company to the extent of the amount of the stock held by each in said company.

Duration of charter.

Sec. 18. And be it further enacted, That this act shall continue and be in force for twenty years, and take effect from the day on which it shall be approved by the governor.

Liability of stockholders.

Approved, December 20, 1851.

[No. 112.]

AN ACT

To amend an act to incorporate the Fireman's Insurance Company of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the president and directors of the Fireman's

Insurance Comapny of Mobile be and are hereby authoris-  
ed to collect and realise all the means and property which  
belonged to said company on the thirteenth day of January,  
one thousand eight hundred and fifty-one, and after pay-  
ment of all liabilities existing against said company on  
said day, from time to time divide said means as the same  
shall be collected pro rata among the several persons, or  
their assigns, who were then stockholders of the capital  
stock of said company, and to call in and revoke all certi-  
ficates representing the capital of said company on said  
day according to and in pursuance of the resolutions of  
the stockholders of said company, adopted on said thir-  
teenth day of January, one thousand eight hundred and  
fifty-one.

Powers to col-  
lect, &c.

Sec. 2. And be it further enacted, That the capital  
stock of said company shall continue to be one hundred  
thousand dollars, and shall be represented by the two thou-  
sand shares of fifty dollars each, which were subscribed  
for on the eighteenth, twentieth, twenty-first and twenty-  
second days of January, one thousand eight hundred and  
fifty-one.

Capital stock.

Approved, December 15, 1851.

[No. 113.]

# AN ACT

To charter the Montgomery Insurance Company

Sec. 1. Be it enacted by the Senate and House of Represen-  
tatives of the State of Alabama in General Assembly convened,  
That Seth Robinson, F. M. Gilmer, Charles T. Pollard,  
E. J. Donnell, John H. Murphy, N. E. Benson, and W. B.  
Bell, and such others as may be associated with them for  
that purpose, and their successors, are hereby created a  
body politic and corporate by the name of "The Montgomery  
Insurance Company," and by that name shall be capable of  
sueing and being sued in all the courts of this state, of pur-  
chasing, holding and conveying property of all descriptions,  
to make, have and use a common seal and the same to alter  
and renew at pleaseure, and generally to do any act necessary  
to carry into effect the objects of the corporation not in-  
consistent with all the laws and constitution of this state or  
of the United States.

Corporators.

Name and style.

Sec. 2. Be it further enacted, That the capital stock  
of this corporation shall be one hundred thousand dollars,  
to be divided into one thousand shares of one hundred dol-

Capital stock.

lars each, and the same to be paid in the manner following: fifteen dollars on each share at the time of subscription, and the residue when the president and directors of the corporation may direct, which capital stock may hereafter be increased to any amount not exceeding three hundred thousand dollars, in such manner as the president and directors may determine; the said stock shall be deemed and held as personal property, and if any stockholder shall neglect and refuse to make the payments as required, his stock may be sold by order of the president and directors, and such stockholder shall be liable for the balance due by him as stockholder to the corporation as it becomes due, and may be sued in the circuit court of Montgomery county for the same.

Sec. 3. Be it further enacted, That the books of subscription shall be opened at any time prior to the first day of June next, at such place in the city of Montgomery as a majority of the persons named in the first section of this act may direct; advertisement of the time and place of opening such books to be made for one week in a newspaper published in Montgomery, which books shall be kept open until the said sum of one hundred thousand dollars shall be subscribed for; and the said persons or a majority of them shall as soon as may be after the books of subscription are closed, call a meeting of the stockholders, who shall proceed to the election of not less than five or more than nine directors as may be determined by them; and the said directors shall elect one of their own number president, and the said president and directors elected in pursuance of this act shall have full power and authority to appoint and remove at pleasure all officers and agents of said corporation, to fix their compensation, prescribe their duties, provide for the taking bonds from them for the security of the corporation for the faithful performance of their duties; and they shall also have the power to fill any vacancy which may occur in their own body, and also to appoint a president pro tempore when the president may be absent from their meeting; and if the president or any director shall be absent without leave for five successive regular meetings of the board, a majority of the same may declare his place vacant and proceed to fill it without notice to such absent president or director.

Opening of  
b'ks of sub-  
scriptions.

Organization.

Sec. 4. Be it further enacted, That the directors of the corporation shall be elected by the stockholders, and the president by the directors from among their own number, and when elected they shall hold their offices for one

Election of  
stockholders.

year or until their successors are elected; and it shall be the duty of the president and directors to call an annual meeting of the stockholders to make such election; and in all meetings of the stockholders those holding a majority of the stock shall constitute a quorum, and each stockholder shall be allowed one vote for each share of stock he holds, and the stock may be represented either in person by the stockholder or by proxy, and the power to vote for absent stockholders may be constituted by any written expression of the stockholder so appointing a proxy to vote for him: Provided, That no one not himself a stockholder shall be capable of acting as proxy for another.

Sec. 5. Be it further enacted, That said corporation shall have full power to make insurance upon ships and other sea vessels, and upon steam boats and all other river boats and craft of every kind, and on all goods, wares and merchandise, slaves, bullion, money and other property, against all maritime or river risks, and upon houses, stores and other buildings, goods, wares and merchandise of every description, against fire, and to fix a premium thereon; to receive from any free person or persons deposits on trust and to accept all such trusts as may be confided to it; to borrow money and issue its bonds therefor; to invest its money or other property in any thing and in any manner which it would be lawful for a citizen of this state to invest money; and the said property or securities to sell and transfer at pleasure; or it may loan its money or other property to any person or on any security which it may think proper: Provided, That nothing in this act shall be so construed as to authorise said corporation to make any notes to circulate as bank notes, or to issue any securities to be circulated in the community as money, or to apply any portion of their money or other property to any banking purpose other than the purchase and discount of bills of exchange and promissory notes and the lending of money; And provided also, That the laws against usury apply to the corporation.

Powers in making insurance, &c., &c.,

Proviso.

Sec. 6. Be it further enacted, That the president and directors of said corporation shall have power to fix the places and mode of transfer of certificates of stock as well as the payment of interest and dividends; that a majority of the board of president and directors shall constitute a quorum, and that said president and directors shall also have power to pass all such by-laws as may be necessary to carry this act into effect, and to execute and authorise the execution of all such bargains and contracts as may seem to them best for the interest of the corporation.

Transfer of stock.

Sec. 7. Be it further enacted, That the said corporation shall be responsible to its creditors to the extent of its property, and the stockholders to the extent of the amount of their respective stock not paid up.

Liability of  
corporation.

Sec. 8. Be it further enacted, That this charter and all the privileges and powers herein granted shall continue in force for the full term of thirty years from the subscription of the stock; and that the property, funds and business transactions of the corporation shall be subject to the same rates of taxation imposed by law on the property and similar business transactions of individuals.

Duration of  
charter.

Sec. 9. And be it further enacted, That all bonds, bills and promissory notes made payable at the office of the Montgomery Insurance Company shall have the same legal effect and be subject to the same legal remedies as if the same were made payable in or at a bank or banks of this state.

Approved, February 9, 1852.

[No. 114.]

# AN ACT

To incorporate the Wetumpka Mutual Insurance Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William Douglass, Aaron Ready, William B. Cooper, Richard S. Persse, Andrew J. Terrell, McKinney Thomas and William T. Hatchett, and their associates and successors, be a body corporate under the name and style of "The Wetumpka Mutual Insurance Company;" and by that name shall sue and be sued, implead and be impleaded, contract and be contracted with, have and use a common seal, and the same alter at pleasure, hold real and personal property, and make all such by-laws and regulations as may be necessary for the government of said company: Provided, They be not repugnant to the laws of this state nor laws of the United States.

Corporators.

Name and style

Powers.

Sec. 2. Be it further enacted, That at all meetings of said corporation every matter shall be decided by a majority of votes, each member holding a policy for one year or longer being allowed one vote; and if his policy exceed one thousand dollars an additional vote for every thousand, (Provided, That insurers under open policies shall be entitled to vote in proportion to the amount actually insured under their policies: And further provided, That no insurer under an open policy shall be entitled to more than ten

Of meetings,  
decisions of  
questions, &c.



votes,) with the right of voting by proxy; and such corporation may choose such officers and for such length of time as they may deem necessary; but no policy of insurance shall be issued by said company until the sum subscribed to be insured shall amount to fifty thousand dollars.

Sec. 3. Be it further enacted, That said corporation may insure for any term not exceeding ten years, any houses, goods, or other species of property against loss or damages by fire or water, and the lives of slaves against death, such damage, loss, or death not resulting from the carelessness, negligence or design of the party insured, and to any amount not exceeding three-fourths of the value of the property insured, (property on ship board or in storage not subject to this limitation), and not exceeding ten thousand dollars on any one block of buildings or stock of goods. Such corporation shall further have the power of insuring the lives of white persons for any term of years or for life; may grant annuities and make any and every contract in which the risk of life shall be a part thereon; and said corporation shall further have the right and power to make the sum insured in any life policy payable to the wife of the person insured, or to his wife and children; and in these cases the sums insured shall be payable to the said wife or wife and children, as the case may be, for their sole use and benefit, free from the claims of the representatives or the creditors of the party insured: Provided, That annual premium shall not exceed three hundred dollars. The directors of said corporation are hereby further empowered at any time to make the insurance of the lives of white persons and the granting of annuities a separate department of their business; and all the contracts, liabilities, claims, receipts, expenses and investments of the life department shall be distinct from the other business of the corporation as much as if they belonged to another company; and the officers of said corporation shall invest the funds belonging to the life department only in stocks of the United States, or of the several states, or in bonds and mortgages on unincumbered real estate worth in the opinion of the directors at least four times the amount loaned thereon.

May insure.

Sec. 4. Be it further enacted, That whenever said corporation shall make insurance on any property, the member so insured shall pay the required premium in cash, or give his note or bond well secured for the amount of the insurance money with the treasurer of the corporation; at least ten per cent of said note, which shall be entered as a

Of payment  
of premiums.

credit thereon, and the funds thus raised may be applied to the ordinary expenses of the corporation; and the directors may at any time thereafter, when the liabilities of the company require it, collect such further sums as may be necessary by making assessments on said notes in proportion to the original amount of each note, giving thirty days' notice by mail or in person to each member, or by advertisement in the most convenient newspaper, as may be deemed best by the directors.

Sec. 5. Be it further enacted, That whenever any person shall sustain any loss of the property so insured, he shall, within thirty days after his knowledge of the said loss, and in the case of real estate, before any repairs or alterations are made, give notice in writing of the same to some one of the directors, whose duty it shall be to view immediately the premises where the loss occurred, or otherwise make satisfactory inquiries into the circumstances attending it, and under oath, determine in writing by him subscribed the amount, if any, of the liabilities of said corporation for such loss; and if the sufferer shall not acquiesce in such estimate, he may within sixty days after he is notified of the estimate, bring an action at law against said corporation. If in this action he shall not receive as damages more than the amount estimated as aforesaid, he shall be liable for all costs incurred in the suit, and execution shall issue against the corporation only for such amount as may be allowed after deducting said costs of suit; but if the amount be greater than the estimate, then the corporation shall be liable for all the costs of suit.

Of losses,  
&c.

Sec. 6. Be it further enacted, That when said corporation shall make insurance on any property, the interest of the person insured in said property shall be held as security for the payment of the deposit note given to the said corporation, and the policy of the insured shall, from the time it issues, create a lien on the said property, and no transfer of the said property shall affect the said lien: Provided, It shall be expressed in the policy that the insurance is made subject to such lien.

Security for  
property in-  
sured.

Sec. 7. Be it further enacted, That if any member of said corporation obtaining insurance, or in case of his death, his legal representatives, shall refuse or neglect to pay any assessment within thirty days after the demand be made, or any instalment on his deposit note, he shall be liable to a suit therefor by the corporation in any court having competent jurisdiction; and also the liability of the corporation for the policy under which the payment is withheld shall

Of assess-  
ments, &c.

be suspended until said payment is made; and if said payment is not made within six months the said policy shall to all intents and purposes be forever forfeited.

Sec. 8. Be it further enacted, that any three of the persons herein named as incorporators may call the first meeting by advertisement for such length of time as they may determine, in the most convenient newspaper.

1st meeting.

Sec. 9. Be it further enacted, That any person insured shall have the right to return his policy and demand his note at any time Before it would expire by its own limitation: Provided, There is no unpaid assessment upon the note or losses unprovided for.

Return of Policy.

Sec. 10. And be it further enacted, That all laws or parts of laws militating against this act be and the same are hereby repealed.

Repeals.

Approved, February 10, 1852.

[No. 115.]

# AN ACT

To incorporate the Selma Marine and Fire Insurance Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be established in the town of Selma a company for the purpose of transacting the business of marine, inland and general insurance, which company shall be called and knowned by the name of "The Selma Marine and Fire Insurance Company;" and all such persons as shall be stockholders of said company and their successors shall and may have continual succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever in all manner of actions, suits, complaints, matters and cases whatsoever; and they and their successors may have a common seal and may change and alter the same at pleasure; and also they and they successors by the name and title of the Selma Marine and Fire Insurance Company, shall be in law capable of purchasing, holding and conveying all kinds of estate whatsoever, real and personal, for the use of said corporation subject to the restrictions hereafter named; and the said company is also authorised to discount notes, drafts or bills of exchange, and deal in bills of exchange either foreign or domestic; that the capital

Name and style.

Body corporate

General powers.

stock of said corporation shall be one hundred thousand dollars with the privilege of increasing the same to three hundred thousand dollars, whenever the board of directors deem it expedient, divided into shares of one hundred dollars each; ten dollars on each share to be paid at the time of subscribing, and the remainder in such instalments as the directors may appoint: Provided, however, That the first board of directors to be chosen as hereafter directed, shall within one month after their appointment, take good and sufficient security for the payment of the said remaining amount of stock unpaid at the time of subscribing as aforesaid, whenever it shall be deemed expedient to call for the same.

Sec. 2. Be it further enacted, That it shall be lawful for the president and directors of said company, or a majority of them, to alter and change the securities as aforesaid from time to time for securities of the same nature as they may deem expedient.

Powers.

Sec. 3. Be it further enacted, That subscriptions shall be opened in the town of Selma for the said shares, between the first day of----next, and the first day of \_\_\_\_\_ thereafter, under the superintendence of D. A. Boyd, John W. Lapsley, Nathaniel Waller, A. M. Goodwin, Abner Jones, James M. Huggins, Frederick S. Becton, Thomas W. Street, Thomas L. Craig, Robert N. Philpot, or any three of them, which said subscription shall continue open until fifty thousand dollars be subscribed; but no share or shares shall entitle the holder to vote at any election unless the same shall have been held bona fide by him or her at least fifteen days next immediately before such election.

Subscriptions  
of stock.

Sec. 4. Be it further enacted, That there shall be chosen seven directors who shall hold their office for one year, and until their successors shall have been duly qualified, which directors at the time of their election and during their continuance in office, shall be holders in their own right of at least ten shares, and shall be elected annually after the first election, at the office of said company or any other convenient place in the town of Selma, and at such time of day as the president of the company shall appoint; of which election notice shall be given in a newspaper published in the town of Selma, or by notice to the stockholders respectively, in writing, at least five days next before said election; and said election shall be by ballot, and in person or by proxy, and each stockholder shall be entitled for every share to one vote; that if no election takes place on any such day, the president may order the same

Organization

Elections, &c.

from time to time until an election be effected: Provided, The same be done within ninety days thereafter.

Sec. 5. Be it further enacted, That the directors of said company in the first instance shall be chosen in the following manner, viz: As soon as fifty thousand dollars shall have been subscribed, the said D. A. Boyd, John W. Lapsley, Nathaniel Waller, A. M. Goodwin, Abner Jones, James M. Huggins, F. S. Becton, Thomas W. Street, Thomas L. Craig, Robert N. Philpot, or any three of them, shall appoint a place in the town of Selma for the first proceeding to the election of the said seven directors, and shall give at least seven day's notice of the same in a newspaper published in said town, or by writing as aforesaid to the stockholders respectively; and it shall be lawful for said election to be then and there holden by the subscribing stockholders by ballot, under the superintendence of the before mentioned persons, or any three of them; and the persons then and there chosen shall be the first directors and shall serve for one year and until their successors shall be qualified; that they shall meet as soon as convenient after the election and choose out of their own body a president, who shall serve until another board by election be qualified; and in case of vacancy, the directors shall choose another of their own body in like manner; and in case of vacancy in the board the remaining members shall have power to fill the same.

1st board,  
how chosen.

Sec. 6. Be it further enacted, That the directors or a majority of them shall have power to make, prescribe and alter such by-laws, rules and regulations as shall appear to them needful and proper for the management and disposition of its stock, property, estate and effects: Provided, They shall not be repugnant to the constitution and laws of the state.

Powers, &c.

Sec. 7. Be it further enacted, That the president and two directors, or three directors in the absence of the president, shall have full power and authority on behalf of the corporation to make general insurance on vessels, steamboats, keel and flat boats, or crafts of every kind, buildings, freights, moneys, cotton, gin houses, and all goods, wares and merchandise, and to fix premiums for the same; also to transact all such matters as appertain to an insurance company; and all policies by them made, subscribed to by the president or two directors and countersigned by the secretary, shall be binding and obligatory upon the said corporation in like manner and with like force as if under the seal of said corporation.

Powers to make  
insurance.

S Sec. 8. Be it further enacted, That said corporation shall not deal in any goods, wares or merchandise whatsoever.

Restriction.

Sec. 9. Be it further enacted, That no insurance shall be made until the securities provided for by this act shall have been given; and if within fifty days after subscribing the stockholder shall neglect to furnish such security for the stock remaining unpaid on each share, he shall forfeit his first payment.

Restriction.

Sec. 10. Be it further enacted, That all contracts for the payment of money by the said corporation shall be under the seal of the same and shall be taken to operate as specialties in law.

Contracts.

Sec. 11. Be it further enacted, That this act shall continue and be in force for and during thirty years from the day on which it shall be approved by the governor.

Duration of charter.

Sec. 12. Be it further enacted, That this corporation may receive deposits, which deposits shall not be liable for any debts of the corporation.

Deposits.

Sec. 13. And be it further enacted, That the capital stock and property of said company shall at all times be liable to the same rates of taxation as the property of individuals or like corporation in this state.

Liable to taxation.

Approved, February 9, 1852.

[No. 116.]

# AN ACT

To incorporate the Tuscaloosa Marine and Fire Insurance Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be established in the city of Tuscaloosa a company for the purpose of transacting the business of marine, inland and general insurance, which company shall be called and known by the name of "The Tuscaloosa Marine and Fire Insurance Company;" and all such persons as shall be stockholders in said company, and their successors, shall and may have continued succession, and shall be capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever; and they and their successors may have a common seal, and may change and alter the same at pleasure; and also, they and their successors, by the name and style aforesaid, shall be

Name and style.

Corporate powers.



capable of purchasing, holding and conveying all kinds of estates whatsoever, real and personal, for the use of said corporation, subject to the restrictions hereinafter mentioned; and the said company is also authorised to discount notes, drafts or bills of exchange, and to deal in exchange, either foreign or domestic; that the capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing it to two hundred thousand dollars at such times and in such amounts as the directors may think proper, divided into shares of one hundred dollars each; that said company may receive moneys on deposit or in trust, upon such terms as may be agreed on, and that they have power to give acknowledgments for such deposits in such manner and form as they may deem convenient and necessary to transact such business: Provided, That all such deposits and trusted funds shall be from liability for any loss or indebtedness arising or growing out of the insurance business of said company.

Capital stock

Proviso.

Sec. 2. Be it further enacted, That Hopson Owan, Henry A. Snow, Augustus Hopkins, Leonard B. Neal, John J. Ormond and Washington Moody, who or any three of whom, shall open books for subscription to the capital stock of said company at such times and places as they may appoint, giving ten day's notice of the same in some newspaper published in the city of Tuscaloosa; and every subscriber at the time of subscribing shall pay ten dollars on each share; and said subscription shall remain open until fifty thousand dollars are subscribed, when said company may organise.

Comm's. to open books.

\$50,000 subscriptions may organise.

Sec. 3. Be it further enacted, That as soon as the sum of fifty thousand dollars shall be subscribed as aforesaid, the above named commissioners, or any three of them, shall give seven days' notice of the time and place of holding an election for directors; and at the time and place appointed, if a majority of the stock subscribed shall be represented, they shall proceed to elect a president and four directors for said company, who shall hold their offices for twelve months, and until their successors are qualified; and at the expiration of twelve months the said stockholders shall elect a new president and directors and so at the end of each successive year; and in the event of a failure to elect at the regular time, said election may be made at any called meeting of the stockholders when a majority of the stock is represented; and in all elections every stockholder shall be entitled to as many votes as he has shares, and may vote in person or by proxy; and the said board shall have the power to fill all vacancies in their own body: Provided, That

the same shall be filled by the appointment of a stockholder.

Sec. 4. Be it further enacted, That the board of directors shall have power to make and alter such by-laws, rules, and regulations as may be necessary to carry on the business of the corporation: Provided, That the same shall not be contrary to the constitution and laws of the State of Alabama; and this charter shall not be altered or amended, except by the consent of the stockholders.

Powers of directors.

Sec. 5. Be it further enacted, That the president and two directors, or in the absence of the president, three directors, shall have full power and authority on behalf of the corporation to make general insurance upon vessels, buildings, freights, moneys, and all goods, wares and merchandise, and to fix premiums for the same; also to transact such matters as appertain to an insurance company; and all policies made by them, subscribed by the president and two directors and countersigned by the secretary, shall be binding upon the corporation in like manner and with like force as if under the seal of said corporation.

May insure.

Sec. 6. Be it further enacted, That no insurance shall be made until the sum of fifty thousand dollars be paid up by the stockholders or secured as the directors may require; and and said corporation shall not deal in any goods, wares and merchandise whatsoever.

Restriction.

Sec. 7. Be it further enacted, That all contracts for the payment of money shall be made under the seal of the corporation and shall be taken to operate as specialties of law.

Contracts.

Sec. 8. Be it further enacted, That the capital stock of said corporation shall be liable to the same rates of taxation, as the property of individuals or like corporations are subject in this state.

Liable to tax.

Sec. 9. Be it further enacted, That the stockholders shall be individually liable for the deposits and trust funds held by said company.

Liability.

Sec. 10. And be it further enacted, That after the organization of said company, and it shall be though proper to open books for further subscriptions for stock, the original stockholders shall have the preference in subscribing for said additional stock.

Increase of capital.

Approved, January 6, 1852.

[No. 117.]

## AN ACT

To amend "an act to incorporate the Marine Dock and Rail-way Company of Mobile," approved February 11, 1848.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly Convened, That this company shall be called "The Mobile Marine Dock and Mutual Insurance Company;" and that all the corporate powers of said company shall be exercised by a board of ten directors and such officers and agents as they shall appoint; said board of directors to elect a president and vice president out of its own body annually.

Name

Corporate board.

Sec. 2.. Be it further enacted, That in addition to the powers and privileges granted to the Marine Dock and Rail-way Company of Mobile, this company shall be entitled to all the powers and privileges granted to the City Insurance Company in the city of Mobile, and shall have power by instrument under seal or otherwise; 1st. To make insurance upon steam boats and other vessels, freights, goods, wares and merchandise, specie, bullion, commission profits, bank notes, bills of exchange and other evidences of debt, bottomry and respondentia interests, and to make all and every insurance appertaining to or connected with marine or inland navigation risks. 2d. To make insurance on dwelling houses, stores or other buildings, household furniture, steam boats or other vessels, merchandise and other property, against loss or damage by fire. 3d. To make insurance on lives, and to make all and every insurance appertaining to life risks. 4th. They may cause themselves to be re-insured against any risk upon which they have made or shall make insurance.

Powers of insurance.

Sec. 3. Be it further enacted, That the board of directors shall have power, at such time or times as they may deem advisable, to open subscriptions to increase the capital stock of said company: to such extent as they may consider for the interests of said company: Provided, That the capital stock of said company shall not exceed two hundred thousand dollars.

Capital stock.

Sec. 4. Be it further enacted, That it shall be lawful for said company to make investments in lands and mortgages on unincumbered real estate within the corporate limits of the city of Mobile worth one hundred per cent. more than the sum charged thereon; and also in stock created by or under the laws of the United States or of this state, and to make loans upon such stocks and upon personal securities.

Of investments by the comp'ny.

Sec. 5. Be it further enacted, That the business of this company shall be conducted upon the mutual principle, and that every person having taken a policy during the preceding year directly in his own name, or in the name of his firm, shall be deemed a member of said company.

Principle of business.

Sec. 6. Be it further enacted, That the officers of said company shall cause semi-annual estimates to be made of the profits and true state of the affairs of said company, which estimates shall be conclusive upon all persons entitled to receive profits as hereinafter provided, and shall cause a balance to be struck of the affairs of said company; and the board of directors shall semi-annually make a dividend of so much of the profits of said company as to them, or a majority of them, may seem advisable, the said profits to be divided pro rata among the stockholders of said company upon the amount of capital stock by them severally held and among the members upon the amount of premiums by them severally paid to said company: Provided, That no dividend shall be declared for less sum than five dollars, and that the dividends which would arise on sums producing less than five dollars shall be passed to the contingent accounts of said company and be applied to the expenses and other accounts of said company and be applied to the expenses and other charges of the years to which they appertain.

Estimate of profits.

Sec. 7. And be it further enacted, That so much of the act of incorporation of the Marine Dock and Railway Company of Mobile as conflicts with this act be and the same is hereby repealed.

Repeals

Approved, December 30, 1851.

[No. 118.]

# AN ACT

Of the Legislature of Alabama incorporating the Gulf and Atlantic Steam Navigation and Direct Trade Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That for the purpose of establishing direct trade between this state and different points in the West Indies, Europe and elsewhere, and for the encouragement of ship building in Alabama, George Gaines Henry and his associates be and they are hereby constituted a body corporate under the name and style of "The Gulf and Atlantic Steam Navigation and Direct Trade Company;" and in that name and style may sue and be sued, contract and be contracted with,

G.G. Henry and associates, corporators.

Name, style and powers.

have, hold, possess, and enjoy real and personal estate, accept grants of land from the State of Alabama or the United States, and to make such by-laws and ordinances as they may find necessary for the government of the said corporation not contrary to the laws of this state or the United States.

Sec. 2. Be it further enacted, That the said corporation shall have power to construct, build and purchase vessels to be propelled by the force of steam, or by any other mechanical power, or combination of such powers, and with such vessels to engage in the transportation of property and produce of every kind, together with the carriage of passengers; and to enter into contracts with the government of the United States and all or any other governments or government for the transmission of the public mails.

May make contracts.

Sec. 3. Be it further enacted, That the corporation may insure the lives of passengers in their vessels or cargoes in the usual mode, and may invest the profits in the construction or purchase of other vessels, as they shall think proper.

May insure.

Sec. 4. Be it further enacted, That it shall be lawful for the said company, for the purpose of carrying the objects of this act into effect, to pass their bonds for any sums of money to any persons or corporation, so that the principal advanced on such bonds be made payable at such times and place or places as may be agreed upon, together with such interest as may accrue thereon; such bonds respectively to be under the hand of the president and the common seal of said company.

May insure bonds.

Sec. 5. Be it further enacted, In order that every citizen of the state may have ample facilities afforded him of becoming acquainted with the objects of this act, and of becoming a stockholder in the said company, that books of subscription to the capital stock of the said company shall be opened under the direction of three commissioners at one public place at least in each county in the State of Alabama, and at as many other places as the governor of the said state for the time being shall deem advisable; and that due notice shall be given by the said company in the newspapers of the time and place of such opening; and each of the three commissioners at each place shall be appointed and commissioned by the governor to register the names of subscribers and receive and transmit the funds and records to the company at Mobile.

Opening books for subscription.

Sec. 6. Be it further enacted, That each member of the said corporation shall be liable for its debts only to the

Liability of stockholders.

amount of the capital stock held by such member at the time of contracting such debts.

Sec. 7. Be it further enacted, That stockholders may transfer their shares undersuch rules and regulations as the said corporation by its by-laws may prescribe.

Transfer of  
st'k.

Sec. 8. Be it further enacted, That if the construction of the foregoing charter any provision is omitted which would serve to or be required to facilitate and render operative the purposes or intentions of the said corporation which is to open a direct trade with Europe, the West Indies, and other countries, in the company's vessels, that the same shall be taken and deemed as granted by this act: Provided, That no such provision conflicts with the rights of individuals, the laws of this state or of the United States.

Provision in  
favor of comp'y.

Approved, February 10, 1852.

① No. 119.]

# AN ACT

To incorporate the Alabama Direct Trade and Exchange Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That R. J. Houston, John C. Whitsett, of Sumter county, Duke W. Goodman, Charles LeBarron, Price Williams, of Mobile county, William R. Cunningham, of Aberdeen Mississippi, James M. Wallace, John W. Bush, James B. Gladney, Thomas R. Gardner, of Pickens County, Alabama, John A. Boyd, of Pontotoc, Mississippi, Daniel Turnipseed, of Pickens county, Alabama, George C. Henry, of Mobile, John Moore and James B. Wallace, of Tuscaloosa, Alabama and William Garrett, of Coosa county, Alabama and their associates and successors, are hereby formed and created a body corporate by the name and style of "The Alabama Direct Trade and Exchange Company;" by which name they may sue and be sued, plead and be impleaded in all matters of law, and equity whatever; they are hereby made capable of owning by purchase or otherwise, ships, steam vessels, property and effects, whether lands, goods, money, or choses in action, and sell, exchange or otherwise dispose of the same as natural persons may; they may have a common seal and the same break, alter or amend at pleasure; they may make by-laws and ordinances for their own proper government as they may choose: Provided, The same be not violative of the constitution or laws of

Corporations.

Name and  
style

Objects and  
corporate  
powers.



this state nor those of the United States; they may establish on their own account agencies in this state or any other state in the union, and in foreign countries, for the purposes of facilitating a direct trade; receive, ship and sell the produce, merchandise and manufactures of this or other states of the union, abroad, and in like manner import into this state from foreign markets the produce, merchandise or manufactures of foreign countries, and deal generally in foreign and domestic bills of exchange, and may receive commissions such as may be reasonable or agreed upon for the same; they may make advances on shipments and charge interest and commissions thereon; and may do and transact all such business as is or may become necessary for carrying on a business of the kind. Said company shall not purchase or own on its own account any property or ships, or import any articles for its own use except such as is necessary in carrying on its business or which is taken for the purposes of securing debts due said company, but shall confine themselves strictly and in good faith to the commission business contemplated by this act; and the stockholders are liable for the debts and defaults of said company in proportion and to the extent only of the stock subscribed in their individual capacities in addition to the strict liabilities of the company as such.

Sec. 2. Be it further enacted, That the company shall not be considered organised until the members thereof shall have subscribed stock, in shares of one hundred dollars each; to the amount of two hundred thousand dollars, and there shall have been paid in, for the use of said company, twenty thousand dollars in gold or silver coin of the United States; other persons may be admitted as members from time to time by a vote of two-thirds of the members at the time, allowing one vote for each five shares; but the capital stock may in the same manner be increased to not exceeding three millions of dollars.

Capital stock.

Sec. 3. Be it further enacted, That the affairs of said company shall be managed by a president and five directors, to be styled the board of president and directors, which officers shall be elected by the stockholders annually, beginning on such day as they may appoint, and voting five shares to the vote as aforesaid. It shall be the duty of an agent or member of said company to sell or dispose of according to order, all produce, merchandise, &c., consigned to said company by citizens of the United States; and another agent or member of said company to sell or dispose of that which may be consigned to said company

Organization  
and management  
of com'py.

by citizens of foreign countries; one agent or member at least of said company shall reside abroad with a view to making or superintending purchases ordered through said company; clerks, agents, and other officers necessary, may be elected by the president and directors, who may require them to take an oath and to give bond such as they may prescribe, &c.

Sec. 4. Be it further enacted, That the president and directors, members or agents acting as aforesaid, shall before entering upon the duties of their office, each take and subscribe Before some justice of the peace, an oath as follows: "I \_\_\_\_\_ as president, agent or director, &c., of the Alabama Direct Trade and Exchange Comapny, do solemnly swear that I will sell or purchase, or cause to be sold or purchased, any produce or commodity whatever entrusted for that purpose to said company to the best advantage to the owner thereof; and whatever I do in reference thereto shall be with a view to his best interest, and faithfully discharge all other duties of my office; so help me God. Signed this \_\_\_\_\_." Said officers shall also each as aforesaid enter into a bond with security in such sum as the stockholders may prescribe, payable to the governor of the state and his successors in office, and conditioned faithfully to perform the duties of his office, (naming it), and to do all things in connection therewith according to the best interest of the employers and patrons of said company; said bonds may be sued upon by any one injured; but this shall not diminish any other right or remedy which any person may have against such officer of said company. Said bonds shall be approved by and filed in the office of the judge of probate of Mobile county with the affidavits above named.

Officers shall  
take oath.

Sec. 5. Be it further enacted, That shares of stock in this company are transferable under such regulations as the directory may prescribe; but in case of a failure of the company within six months after the transfer, the party selling as well as the purchaser shall be liable for the debts of the company in proportion to the stock transferred only. and said directory may make rules preventing the transfer of shares by a stockholder indebted to the company as well as to withhold dividends from delinquents.

Transfer of  
shares.

Sec.6. Be it further enacted, That accounts of sales and other transactions of said company must be promptly made up and kept, and statements furnished to persons interested immediately by mail or otherwise, or within ten days, if the transaction is in this country; if abroad, being forwarded with the like promptitude, must be furnished within

Accounts of  
sales, &c.

ten days after their reception at the office in this country; and on failure to comply with this provision, the company is held liable to pay any one interested the sum of one hundred dollars, to be recovered on motion after notice as above stated.

Sec. 7. Be it further enacted, That said company shall at no time create or have outstanding obligations for an amount greater than the amount of capital stock actually paid in and two-thirds the cash value of produce, manufactures, &c., on hand at the time; and if so, the president and directors acting at the time are held liable in their individual capacities for losses which may ensue in consequence thereof; nor does this diminish or impair any other right or remedy against the company; so also are the president and directors liable in their natural and individual capacities if they draw on produce or merchandise entrusted to them, to make a forced and sacrificing sale by them necessary; but the president or any of the directors may exonerate themselves by calling a meeting, which they for that purpose have a right to do immediately, and giving notice that they were absent at the time such excess or irregularity occurred, or that they dissented from it at the time; and the same must be entered on the books of the company.

Restriction.

Sec. 8. Be it further enacted, That unless this company commence the operation of direct trade and importations from abroad within five years, or if said company at any time cease to carry on a direct trade as herein contemplated, and do not in good faith adhere to the provisions and objects of this charter, then the legislature may at any time repeal this act.

When to commence operations.

Sec. 9. And be it further enacted, That said company, through their president, previous to the meeting of each legislature, shall make to the governor a complete report of their transactions, showing the amount of their assets and liabilities, and of what they consist; a list of the stockholders and the shares held by each. The governor may also, if he deem it necessary, biennially or oftener if he choose, appoint three commissioners to examine into the condition of the affairs of said company; said commissioners shall be furnished by the company with the books, papers, &c., and have extended to them every facility for a full and thorough examination; they shall receive for their services, to be paid by the company, three dollars per day for not exceeding fifteen days, and make report to the governor. They shall also take and subscribe an oath that they had

Shall make report to legislature.

not previously to the time of said examination communicated to the company the time when they would commence.

Approved, February 5, 1852.

[No. 120.]

AN ACT

Supplementary to an act incorporating the Alabama Direct Trade and Exchange Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That nothing contained in the second section of an act incorporating the Alabama Direct Trade and Exchange Company, in relation to the capital stock, shall be so construed as to prevent said company from receiving subscriptions of capital stock to such an amount as may be found necessary to carry out the legitimate objects of their charter.

Explanatory.

Approved, February 9, 1852.

[No. 121.]

AN ACT

To incorporate the Mobile and Vera Cruz Mexican Gulf Steamship Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Joseph E. Murrell, Lucien Meade, H. O. Brewer, and others, their associates and successors, are hereby constituted a body corporate, by the name of "The Mobile and Vera Cruz Mexican Gulf Steamship Company," and so to remain and continue for twelve years next ensuing, for the purpose of building, equipping, furnishing, filling, purchasing, chartering and owning vessels to be propelled solely or partially by the aid or power of steam or other expansive fluid or motive power, and to be run and propelled between the city of Mobile, and the city of Vera Cruz and such other ports and places upon the Gulf as may be found expedient and beneficial, and of purchasing, owning and navigating auxiliary vessels as may be necessary to provide fuel and other supplies; and for such purposes all the necessary and incidental power is hereby granted to said corporation.

Corporators.

Name and style.

Corporate objects, &c.

Sec. 2. Be it further enacted, That the capital stock of fifty thousand dollars with liberty to increase the same at

Capital stock.

any time to a sum not exceeding six hundred thousand dollars; said stock shall be divided into shares of one hundred dollars each and shall be deemed personal property and transferable in such manner as the by-laws of said corporation direct; the said corporation may commence operations when fifty thousand dollars shall have been subscribed and five per cent on such share subscribed for paid in.

Sec. 3. Be it further enacted, That the said corporation shall be commissioned to receive subscription for said capital stock at such time and place in the city of Mobile as they shall appoint, by giving ten days' public notice thereof in one or more newspapers published in the said city; and if the whole capital stock shall not be subscribed for at this time first appointed, other subscriptions may be at any time received until the whole amount shall be subscribed, under such rules and regulations as the board of directors of said corporation shall prescribe.

Commissioners  
to open books.

Sec. 4. Be it further enacted, That as soon as fifty thousand dollars shall have been subscribed, the said commissioners shall call a meeting of the stockholders by giving ten days' public notice thereof in one or more newspapers published in the city; and said stockholders shall elect by ballot at such meeting or at subsequent general meeting, seven directors, being stockholders, to manage the concerns of the said corporation, who shall hold their office for one year and until others are chosen in their places; the directors, except for the first years, shall be annually chosen at such time and place as shall be directed by the by-laws of the said corporation; in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy. In case it should happen at any time than an election of directors shall not be made on the day appointed by the by-laws of the said corporation, said corporation shall not for that cause be deemed to be dissolved, but such election may be held on any day which shall be appointed by the directors of said corporation.

\$50,000 sub-  
scribed, com-  
pany may or-  
ganise.

Sec. 5. Be it further enacted, That the directors of whom three shall constitute a quorum for the transaction of business, shall appoint one of their number to be president, and may appoint such other officers and agents as they shall deem necessary, and may make and establish such by-laws, rules and regulations as they may think proper and expedient touching the disposition and management of the property, estate and effects of the said corporation;

Organization.

the transfer of shares, the duty and conduct of their officers and servants, the elections and meetings of directors, and all matters whatsoever which may appertain to the concerns of said corporation; when any vacancy shall happen among the directors, it may be filled by the remaining directors, and the directors may remove all officers appointed by them and appoint others in their places and fill out vacancies in their office.

Sec. 6. Be it further enacted, That the directors may require payment of subscription to the stock at such time and in such proportions as they may deem proper, under the penalty of forfeiting all stock and previous payment made thereon, and may sue for and recover all such subscriptions; notice of the time and place of such payment shall be published for four weeks previous to such time at least once in each week in one or more newspapers published in the city of Mobile.

Payment of  
subscriptions.

Sec. 7. Be it further enacted, That the said corporation may have and use a common seal, and the same may alter or renew at pleasure; and all contracts may be either verbal or or under the signature of the president and directors of the corporation, and with or without the corporation seal; the corporation may purchase, hold and convey such real estate as may be required for its purposes, to an amount not exceeding fifty thousand dollars.

May have a  
seal.

Sec. 8. Be it further enacted, That the stockholders of said corporation shall be jointly, severally and individually liable for all debts that may be due and owing to all their laborers and workmen for services performed for said corporation.

Liability of  
stockholders.

Sec. 9. Be it further enacted, That the stockholders of said corporation shall be severally and individually liable to their creditors of said corporation to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by said corporation, until the amount of said capital stock of said corporation shall have been paid in and a certificate thereof shall have been made and recorded as prescribed in the following section.

Liability of  
stockholders.

Sec. 10. Be it further enacted, That the president and a majority of the directors of the corporation, within thirty days after the payment of the last instalment of the capital stock of said corporation, shall make a certificate stating the amount of the capital stock of the corporation, and that the same is paid in; which certificate shall be signed and sworn to by a majority of the directors, and they shall within the said thirty days record the same in the office of the clerk of the city and county of Mobile.

Duty of Presi-  
dent and direc-  
tors.



Sec. 11. Be it further enacted, That no person holding stock in said company as an executor, administrator, guardian or trustee, and no person holding stock as collateral, shall be personally subject to any liability as a stockholder of said company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the real estate and funds in the hands of such administrator, executor, trustee or guardian, testator, or intestate, or ward, or person interested in such fund would have been if he had been living and competent to act and hold the stock in his own name; every such executor, administrator, guardian or trustee shall represent the share of stock owned by him as such administrator, guardian or trustee at all meetings of the company, and may vote as a stockholder; and every person pledging his stock as aforesaid may in like manner represent the same and vote accordingly.

Regulation of  
stockholders.

Sec. 12. Be it further enacted, That it shall be the duty of the said corporation to use a book to be kept by some officer or clerk thereof, containing the names of all persons who are or shall within two years have been stockholders in said corporation, and showing their places of residence, the number respectively, and the time when they became respectively the owners of such shares; which book shall at all reasonable times be opened for the inspection of the creditors and stockholders of said corporation at the office or principal place of business of said corporation.

Record shall  
be kept.

Sec. 13. And be it further enacted, That this act shall take effect immediately.

Shall take ef-  
fect.

Approved, February 10, 1852.

[ No. 122. ]

# AN ACT

To incorporate the New York and Alabama Steamship Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Lucien Meade, Richard, Crocheron, Herman T. Livingston, and their associates, and all other persons who are or hereafter may be holders of the stock hereinafter mentioned, are constituted a body corporate by the name of the "New York and Alabama Steamship Company," and so to remain and continue for twenty years next ensuing, and for the purpose of building, equipping, furnishing, fitting,

Corporators.

Name and style.

purchasing, chartering and owning, wholly or in part, vessels to be propelled solely or partially by the power or aid of steam or other expansive fluid or motive power, and to be run and propelled in navigating between the cities of New York and Mobile, and to couch at any intermediate places on their route, or at any part in the waters of the Gulf of Mexico, as may be found expedient and beneficial; and of purchasing, owning and navigating such auxiliary vessels as may be necessary to provide fuel or other necessities; and for such purpose all the necessary and incidental power is hereby granted to said corporation; and all contracts may be either verbal or under the signature of the president and secretary of said company, and withor without the corporate seal.

Objects, Powers,  
&c.

Sec. 2. Be it further enacted, That the capital stock of said corporation shall be five hundred thousand dollars, with liberty to increase the same to a sum not exceeding ten hundred thousand dollars; said stock shall be divided into shares of one thousand dollars each, and shall be deemed personal property, transferable in such manner as the by-laws of said corporation shall direct. The said corporation may direct. The said corporation may commence operations when one hundred thousand dollars shall have been subscribed.

Capital stock.

Sec. 3. Be it further enacted, That Lucien Meade, Richard C. Crocheron and Herman T. Livingston shall be commissioners to receive subscriptions for such capital stock at such time or place, or times and places, as they shall appoint, by giving ten days' notice in one or more newspapers published in the place where such subscriptions are intended to be received; and if the whole capital stock shall not be subscribed for at the time and place, or times and places so appointed other subscriptions may at any time be received until the whole capital stock shall have been subscribed under such regulations as the board of directors shall adopt.

Commissioners.

Sec. 4. Be it further enacted, That as soon as one hundred thousand dollars shall have been subscribed, the said commissioners shall call a meeting of stockholders, by giving ten days' notice thereof in one or more newspapers published in the city of Mobile; and said stockholders shall elect by ballot at such meeting, or at any general subsequent meeting, five directors, being stockholders, to hold their office for two years, to manage and conduct the affairs, business and concerns of the corporation; each stockholder shall be entitled to one vote for each share he shall hold at the time of such election; and the election shall be made.

\$100,000 sub-  
scribed, compa-  
ny may organ-  
ise.

by such of the stockholders as shall attend for that purpose, either in person or by proxy; and the directors of said corporation, except for the first two years, shall be elected at such time and place as shall be directed by the by-laws of said corporation.

Sec. 5. Be it further enacted, That any three directors of said corporation shall form a quorum for the transaction of all the business of said corporation.

Quorum.

Sec. 6. Be it further enacted, That it shall be lawful for the directors of the corporation to call in and demand from the stockholders respectively all such sums of money by them subscribed for at such times, and in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made thereon by stockholders within sixty days after personal demand or notice requiring such payment shall have been published for four successive weeks in three or more newspapers published in the city of Mobile, if so many there be; and said corporation may sue for and recover all such subscriptions.

Calling in  
stock.

Sec. 7. Be it further enacted, That said corporation may have and use a common seal, and the same may alter and renew at pleasure; and said corporation may purchase, hold and convey such real estate as may be required for its purposes to an amount not exceeding one hundred and fifty thousand dollars.

May have a  
common seal.

Sec. 8. Be it further enacted, That the directors of the corporation who from time to time may be duly elected may appoint one of their number to be president, and such other officers and agents, and establish such by-laws and regulations as they may think proper and expedient for the government of the corporation and the management of their business, so that such by-laws and regulations shall not conflict with nor in any manner violate the laws or constitution of this state or of the United States; nor shall any stockholder in said corporation be in any way liable for any debt contracted by this corporation to a greater extent or for a greater amount than the amount of his interest in said corporation.

Organization of  
board.

Sec. 9. Be it further enacted, That it shall be the duty of the corporation to cause a book to be kept by the treasurer or clerk thereof, containing the names of all persons who are stockholders in said corporation, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they became re-

Record to be  
kept.

spectively, the owners of such shares; which book shall at all reasonable times be open for the inspection of the creditors and stockholders of said corporation at the office or principle place of business of said corporation.

Approved, January 30, 1852.

[No. 123.]

# AN ACT

To incorporate the Mobile and Philadelphia Steamship Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Duke W. Goodman, Charles G. Hazard, Henry O. Brewer, and Frederick Stewart shall be and they are hereby appointed commissioners for the purpose hereinafter mentioned, that is to say: they, or a majority of them, after giving four weeks' notice in two or more newspapers in the city of Mobile and Philadelphia, and elsewhere as they may deem advisable, of the time and place or places appointed by them for that purpose, shall open and keep open so long as they deem proper, or until the whole amount of capital stock hereinafter named shall be taken, a suitable book or books, and receive subscriptions therein from all persons desirous of taking stock in the company by this act incorporated, and the form of subscription shall be as follows, viz; We, whose names are hereunto subscribed, do severally promise to pay to the Mobile and Philadelphia Steamship Company the sum of one hundred dollars for each and every share of stock set opposite to our respective name, at such times and in such instalments as the managers of said company may require; and the said persons at the time of subscribing, shall pay to said commissioners the sum of ten dollars on each share of stock by them respectively subscribed; and when one thousand shares of capital stock shall be taken, and the said amount of ten dollars per share thereon shall be paid, it shall be the duty of said commissioners, after giving four weeks' notice of the same, to call a meeting of the subscribers to the said stock, and shall report to said meeting what they shall have done in the premises.

Comm'rs to  
open books of  
subscription to  
capital stock.

Sec. 2. Be it further enacted, That at the meeting of the stockholders so called by said commissioners, the said stockholders shall proceed and elect by ballot five managers to conduct and manage the affairs of said company un-

Meeting of stock-  
holders.

Election of of-  
ficers.

til the first Monday of November following, and until others are elected in their stead; and on the first Monday of November following and annually thereafter, of which at least two weeks' notice in each case shall be given as aforesaid, the said shareholders, in such manner and at such places as may be determined by the bylaws of said company, shall elect five managers to conduct and manage the affairs of said company for the year next ensuing their election; but if from any cause the said election shall not take place whereby this act it should have taken place, the said company shall not for that cause be dissolved, but said election may be held at such time thereafter as a majority of the stockholders may determine upon

Sec. 3. Be it further enacted, That each share of stock shall entitle the holder thereof to one vote at any general meeting or election of said company.

Voting.

Sec. 4. Be it further enacted, That a majority of the managers shall form a quorum for the transaction of business, and at their first meeting after an election as aforesaid, they shall elect one of their number to be president, and a suitable person to be secretary of the company; they shall have power to establish such by-laws and regulations as may be expedient and necessary, and may fill vacancies which may occur in their own body or in the office of president; they shall cause to be kept a full and complete record of the proceedings of the stockholders and of their own body in suitable books to be provided for that purpose, and also suitable books of accounts, in which shall be entered and fairly stated all the business transactions of the company; they may also appoint such officers or agents as the operations of the company may from time to time require, and fix the amount of salary to be paid to each.

Quorum.

Sec. 5. Be it further enacted, That the commissioners aforesaid shall pay over to the president of the company, immediately after he shall have entered upon the duties of his office, or to such other person as the managers may direct, all the money received by them, or either of them, on account of the shares of stock in said company subscribed as aforesaid, after deducting the amount of expenses incurred in performance of the duties assigned them by this act; and the managers shall call in and collect the amount subscribed by the shareholders at such times and in such instalments as they may deem expedient, and they may from time to time take and receive such additional subscriptions to the capital stock as may be thought advisable in extend-

Stock to be  
p'd over.

ing the number and lines of the company's packet vessels, payment thereof to be made as aforesaid; but the amount of capital stock of said company shall not at any time exceed the amount of three hundred thousand dollars.

Sec. 6. Be it further enacted, That when the number of one thousand shares of said stock shall have been subscribed, and the amount of ten dollars per share paid as provided by this act, and the board of managers as aforesaid elected, the said company shall be deemed and taken to be duly organised; and the governor of the state, upon affidavit by the president any two of said commissioners of these facts, shall issue to said company, under the seal of the state letters patent, declaring and recognising the said stockholders, their successors and assigns, a body corporate and politic by the name, style and title of "The Mobile and Philadelphia Steamship Company;" and by said name and style said company shall have perpetual succession, and be able and capable in law and equity to sue and be sued, plead and be impleaded, and to receive, employ, possess, and dispose of ships and vessels with their appurtenances, and the steam engines, or any kind of engines and machinery necessary and proper for the propulsion and navigation thereof, and to hold and use all necessary and convenient wharves and docks for lading and unloading, receiving and delivering merchandise and produce transported or to be transported in such ships and vessels; and further to have all such other rights and powers as may be properly incident to a corporation have for its object and navigation of the ocean, bays and rivers by steam power, and the transportation of goods, wares and merchandise, and the conveyance of passengers by means of such navigation to and from the city of Mobile: Provided, however, Nothing in this act shall be construed to confer on said company any banking privileges or the right to hold real estate other than wharves and warehouses necessary for the transaction of the business of the company; And Provided, It shall not be lawful for said corporation at any time to contract debts exceeding in amount one-half of the capital stock actually paid in.

When a patent shall issue to the company.

Sec. 7. Be it further enacted, That the shares in the capital stock of said company shall be numbered from one upwards in progressive order, and certificates in proper form signed by the president and secretary shall be issued to the stockholders therefor for the shares by them respectively held, and the number attached to each share shall be particularly set forth in each certificate; said shares may be

Of shares of stock, &c.



transferred by assignment on the books of the company in person or by letter of attorney, duly authorised in presence of the president or secretary; and in every case of transfer the former certificate shall be given up and cancelled, and a new certificate issued in its stead to the transferee of such shares; but no share shall be transferred on which instalment remains due and unpaid, except by consent of the board of managers first had and obtained, nor shall any share entitle the holdere thereof to vote at any meeting or election on which any instalment shall be due and unpaid for the space of thirty days after such instalment has been called for by the board of managers; and if any such instalment shall remain due and unpaid for the space of six months after the same has been required to be paid, the managers shall have power after giving thirty days' notice in writing or in print of their intention to do so to the person or persons so in default, to declare the said share or shares forfeited to the use of the company, or they may sue for and recover in the name of the company the amount of all such remaining instalments with interest from the time the same becomes due and payable together with costs of suit.

Sec. 8. Be it further enacted, That dividends of so much of the profits of the said company as shall appear advisable to the managers shall be declared and paid to the stockholders at least once in every year in such manner as may be provided by the by-laws of the company, but shall in no case exceed the amount of net profits realised in such year; and if the managers shall declare and pay any dividend by which the capital stock shall be impaired, they shall be jointly and severally liable for the amount so paid, which shall be recoverable by any party aggrieved in an action on the case before any court having jurisdiction of the amount claimed.

Of dividends.

Sec. 9. And be it further enacted, That special meetings of the shareholders shall be called by the president on the written request of members of the company who are owners of at least one-third of the stock actually paid in; of which meetings at which twenty days' notice shall be given by advertisement in one or more newspapers published in the city of Mobile.

Special meet'gs.

Approved, February 10, 1852.

[No. 124.]

## AN ACT

To incorporate the Mobile and New Orleans Railroad  
Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That W. F. Cleaveland, Joseph Krebs, Colin J. McRae, W. H. Neville, Benjamin Toomer, James Sands, P. Phillips, and their associates, be and they are hereby incorporated into a body politic and corporate under the name and style of the "Mobile and New Orleans Railroad Company;" and by that name are hereby authorised to have and to hold such real and personal property as may be necessary for the objects of this corporation, to make contracts, sue and be sued and to have a common seal; and for the management, direction and control of the said company, to make such rules, regulations, by-laws and ordinances as a majority of the shareholders in value shall direct from time to time.

Corporators.

Name and style.

Corporate powers.

Sec. 2. Be it further enacted, That the persons named in the foregoing section of this act, or a majority of them, shall open books of subscription in the city of Mobile and shall continue the same open until not less than one thousand five hundred shares be subscribed, on which at least ten dollars per share be paid in cash at the time of subscription, when the books shall be closed and the company organised by the appointment of such officers with such powers and authorities as said shareholders, or a majority of them, shall direct; and it shall be lawful for the said corporation after its organization to fix the amount of its capital not to exceed one million of dollars, and to make such rules and regulations in respect to the payment thereof as may be deemed expedient: Provided always, That the shares in the said corporation shall be divided into sums of one hundred dollars each, and that each share shall entitle the shareholder to one vote in all corporate meetings.

Shall open b'ks  
of subscription.

Sec. 3. Be it further enacted, That the said corporation shall have full power and authority to construct a railroad or way with single, double or triple tracks from some suitable point in the city of Mobile towards any point on the Mexican gulf coast, or Mississippi state line, in the county of Mobile, in such a route as shall be deemed most expedient, and to transport and convey thereon for toll, persons and property, by the force of steam, animals or any other mechanical power; and for the purpose of constructing said road, are hereby authorised to lay out their

May construct  
railroad.

road not exceeding one hundred feet wide through the whole and in this state; and for the purpose of depots, cuttings and embankments, and for the purpose of necessary turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for the construction and security of said road: Provided, That all damages that may be occasioned by the taking of such land and materials as aforesaid, for the purposes aforesaid, shall be paid for by the said company in the manner provided in this act.

Sec. 4. Be it further enacted, That said corporation is hereby authorised to purchase, receive and hold such estate as may be necessary and convenient in accomplishing the object for which this corporation is granted; and may by their agents, surveyors, engineers and servants, enter upon all lands and tenements through which they may deem it necessary to make such road, and to survey, lay out and construct the same, and to agree and contract for the lands or right of way with the owners through which they intend to make said road; in case said lands belong to the estate of any deceased persons, then with the executor or administrator of such, or in case of the same belonging to a minor, or person non compos mentis, then with his or her guardian, or in case said lands be held by trustees of school sections, or other trustees of estates, then with such trustees; and said executors, administrators, guardians and trustees are hereby declared competent for such estates or minors to contract with said company to use, occupy and possess the lands of such estates, minors or trustees, so far as may be useful or necessary for the purpose of said railroad; and the act and deed of such executor, administrator, guardian, or trustee, in relation thereto, shall pass a title in said lands in the same manner as if said deed or act was made or done by a legal owner of full age; and such executor, administrator, guardian or trustee shall account to those interested in their respective bonds for the amount paid him in pursuance of such agreement and composition; and if the said company and the parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire, in case of disagreement, shall vest title according to its terms.

May acquire  
right of way.

Sec. 5. Be it further enacted, That if said company cannot agree with the owner of the land through which they desire said road to pass, or with the executor, administrator, guardian or trustee, it shall and may be lawful for

When comp'ny  
and party cannot agree.

the clerk of the county court in which the said land lies, on application of said company or its agents, and he is required to issue a writ of ad quod damnum, commanding the sheriff that without delay he cause a jury of six good and lawful men to go upon such land, on a day to be by said sheriff fixed and appointed, and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian or trustee, at least five days before such day, if they be within his county, or if not, or if the owner or owners be unknown, then notice shall be given by advertisement to be by said sheriff posted and fixed on the dwelling house, if such there be, or in a public or conspicuous place at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the lands at least three weeks by weekly insertions prior to said day, and then cause said jury, after being duly sworn by said sheriff or justice of the peace, to make true inquest of the damage that may be sustained by such owner or estate by reason of making such road through such land: Provided, Said jury shall take into consideration the advantages defendant or defendants may derive from said road and render their verdict accordingly. If any such juror shall fail to appear, or by reason of challenge for cause or otherwise fail to sit on such inquest, the said sheriff shall fill such vacancy from the bys anders; and if they fail to render a verdict the said sheriff shall again on the same or a subsequent day empanel a new jury or jurors until a verdict be had; such verdict and inquest regularly certified by such sheriff shall be returned to the office of the clerk of the circuit court in which said land may be and there remain among the records; and such verdict shall vest in said company to occupy and use such land for the purposes of said railroad on the payment or tender of payment of the damages thereon assessed against such company; and in case of persons absent or unknown as aforesaid, the placing of the amount of damages to the credit of the owner in the hands of the judge of the county court of the county in which such lands may lie shall be deemed and taken as payment, and such judges shall be liable on their bond for due payment of said money on demand.

Sec. 6. Be it further enacted, That it shall be the duty of the sheriff to appoint and hold such inquest within ten days after the receipt of said writ of ad quod damnum, except in cases of absence as aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed for any additional jury which he may have under

Inquest shall be  
had by sheriff.

his writ; and for any default therein the said sheriff shall be fined by the circuit court at the instance of either party, not less than twenty nor more than one hundred dollars; and any juror or witness summoned shall be fined not less than ten dollars for non-attendance; of all such fines as well as costs, the circuit court of the county shall have jurisdiction. There shall be allowed the following fees: To the clerk of the circuit court for any writ of ad quod damnum, seventy-five cents; for receiving and filing inquests, seventy-five cents; to the sheriff for giving notice, seventy-five cents, besides printers' fees, not exceeding two dollars in each case; for holding inquest, five dollars, and for summoning witnesses, twenty-five cents each; to jurors, seventy-five cents per diem each; which fees are not allowed until a verdict be returned and filed, and shall be taxed in the bill of costs and be paid by the company: Provided, however, That before the application for said writ, the said company may make a tender to the owner or owners of such land a sum of money by them deemed equivalent to the damages to be sustained, and upon refusal to accept the sum tendered, and a verdict for the same amount, or a less sum, the costs shall be taxed to and paid by the owners of the land upon which inquest is held.

Sec. 7. Be it further enacted, That whenever it shall be necessary for the construction of their single, double or triple railroad or way to intersect or cross any water course, or any road, it shall be lawful for said company to construct across or upon the same; but the said company shall restore the said water course or road thus intersected to its former state, or in a sufficient manner not to impair its usefulness; and in all cases where any road or public highway is so located that said road cannot be judiciously laid out and constructed across or upon the same without interfering therewith, in such case or cases said corporation may by their engineer cause such road or roads to be changed or altered in such manner that said railroad may be made on the best site of ground for that purpose: Provided, That said corporation shall put such road or highway in as good repair as at the time of changing or altering the same.

Crossing water  
courses or roads.

Sec. 8. Be it further enacted, That it shall be lawful for the company hereby incorporated from time to time to fix, regulate and receive the toll and charges by them to be received for the transportation of persons or property on their railroad or way aforesaid hereby authorized to be constructed, erected, built or used, or upon part thereof.

May collect toll.

Sec. 9. Be it further enacted, That if any person or

persons will or shall willfully do or cause to be done any act or acts whatever, whereby any building, constructions or works of said company, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the persons so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the said company double the amount of damages sustained by reason of such offences or injury, to be recovered in the name of said corporation with costs of suit by action of debt; and such offenders shall also be subject to indictment, and shall be sentenced on conviction, at the discretion of the court, to imprisonment for a period not exceeding eighteen months.

Penalty for  
injuring road.

Sec. 10. And be it further enacted, That the said road shall be commenced in two years from the approval of this act, and a firm, permanent and substantial railroad from the city of Mobile to the western line of the state, or to a point on the coast of the Gulf of Mexico within it, shall be completed and put in operation in eight years from the commencement of the work or this act shall cease and become wholly inoperative.

Road shall be  
commenc'd and  
completed.

Approved, December 24, 1851.

[No. 125.]

# AN ACT

To incorporate the Cahaba Valley Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Joseph Cunningham, George D. Shortridge, J. W. Bridges, A. J. Cross, Thomas, Johnson, James Wilson, and Jacob Johnson, of Shelby county, and James Foreman, Richmond Hammond, John Ash, James J. Bothnell, John T. Pope, Abram Green, Graham Beams, and Wiley Truss, of St. Clair county, be and they are hereby appointed commissioners, any seven of whom may act and do all business necessary to be done under this act, preparatory to the organization of the Cahaba Valley Railroad Company; and they shall open books of subscription for the capital stock of said company at such time and places, and with such notice, not less than thirty days, as they may think proper.

Commissioners  
to organise  
company.

Sec. 2. Be it further enacted, That the capital stock of said railroad company be one million of dollars, in shares of twenty-five dollars each, with the privilege of increas-

Capital stock.



ing to one million and a half, should said increase be found necessary for its construction and further management.

Sec. 3. Be it further enacted, That said railroad shall extend from some point on the Alabama and Tennessee river railroad, in the county of Shelby, and extend on the west side of the Coosa river to some convenient point on the Tennessee and Coosa railroad, on the Alabama and Tennessee river railroad, between the Coosa and Tennessee rivers, and may be and is hereby authorised to connect with the same.

Route of  
road.

Sec. 4. Be it further enacted, That as soon as one hundred thousand dollars shall have been subscribed to the capital stock of said company, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company by the name of "The Cahaba Valley Railroad Company;" and by that name shall be capable in law of purchasing, holding, leasing, selling and conveying real, personal, and mixed property, so far as shall be necessary for the purposes of this incorporation; and by said corporated name sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this state or elsewhere; and to have and use a common seal, and the same to alter, or amend at pleasure; to pass such by-laws, rules and ordinances for the good government of said corporation as to them may seem proper; and generally do all things necessary to carry into effect fully and completely the object of the act.

\$100,000 sub-  
scribed, co.  
declared in-  
corporated.

Name and style.

Corporate powers.

Sec. 5. Be it further enacted, That as soon as fifty thousand dollars shall have been subscribed, the commissioners, hereby appointed shall call a general meeting of the subscribers at such time and place as they may appoint; and at such meeting the said subscribers, or a majority of them in value, shall elect nine directors by ballot, to manage the affairs of said company; and the commissioners as aforesaid, or any three or more of them, shall be judges of said first election of directors; and the directors thus chosen shall elect among themselves a president of said company and allow him such compensation as they may think proper; and on all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote and act for him or her as his or her proxy.

\$50,000 sub-  
scribed, a meet-  
ing may be cal-  
led.

Sec. 6. Be it further enacted, That the president and directors of said company shall be chosen annually by the

Elections an-  
nual.

stockholders of said company; and if any vacancy shall occur by death, resignation or otherwise, of any president or director before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them; and that the president and directors shall hold their office until successors are chosen and qualified; shall have power to call meetings of stockholders at any time; and a majority of stockholders shall have power to remove the president or any director and to fill all vacancies occasioned by removal at pleasure.

Sec. 7. Be it further enacted, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever as they may deem necessary to carry on the business of said company and may dismiss them at pleasure; and a majority of them shall determine the compensation of all officers, engineers and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company for carrying into effect the objects of this act: Provided only, That such by-laws shall not be contrary to the laws of this state or of the United States; and said president and directors, or a majority of them, are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of said loan with interest.

Board may appoint officers.

Sec. 8. Be it further enacted, That the said president and directors shall have power to require the stockholders of said company to pay such instalments on their respective shares of stock in said company and at such times as they may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the instalments on his, her or their stock, in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale the share or shares of such stock owned by such stockholder, or such part as they may think proper, to the highest bidder; and if upon sale of the shares of said stock owned by said defaulting stockholder said stock should be sold for less than the amount due upon instalments as above mentioned, said stockholder shall be liable to pay to the said company the deficiency in manner and form hereafter specified.

May require payment of stock.

Sec. 9. Be it further enacted, That upon the failure or

refusal of any stockholder to pay any instalment called for or demanded by the president and directors of said company, or if upon the sale of said shares as before specified, they shall be sold for less than the amount due upon instalments as above mentioned, the president and directors, upon giving twenty-days' notice to said defaulting stockholder, may proceed, by their attorney, to move the circuit court of the county in which the said stockholder may reside for judgment against the said stockholder for the amount called for by the president and directors of said company, or as the case may be, for any deficiency that may occur in the sale of said stock as above specified; and said court is hereby authorised and empowered and required to render judgment against the said defaulting stockholder at the same term of the court at which said motion is made; which judgment so given shall be a lien on the real or personal property of said stockholder; and execution shall issue as upon other judgments for the amount of said judgment and cost; and all notices hereby required to be given to any defaulting stockholder shall be issued by and in the name of the secretary to the board of directors and served by the sheriff of the county in which the stockholder may reside and shall be returned to the office of the clerk of the court as in cases of common writs; and the sheriff shall be entitled to one dollar for serving said notice, which, with all costs that may occur on said proceeding, shall be paid by the party against whom judgment may be rendered.

Failure of  
stockholder  
to pay may be  
sued.

Sec. 10. Be it further enacted, That the president and directors of said company are hereby authorised to contract for and receive conveyances of lands for the track of said road one hundred feet wide, also for depots, stations, side tracks, &c., and of stone, timber, wood, gravel and earth which may be necessary or required in the construction of said railroad; and when the owner and company cannot agree upon the price, or when the owner is an infant, non-resident, or non compos mentis, then it shall be lawful for the president and directors of said company to apply to the sheriff of the county in which said lands or other property may be situated, who shall summon a jury of seven disinterested freeholders, a majority of whom shall be authorised to assess the damages and return their award or judgment to the next term of the circuit court for the county in which said land or other property may be situated, which shall be entered by the clerk as the judgment of the court; and execution may issue thereupon for the amount of said judgment and costs; Provided always,

Board may con-  
tract for ma-  
terials and ac-  
quire right of  
way.

That if either party shall upon the return thereof be dissatisfied, they may upon filing bond with good and sufficient security in such sum as the court may order, be allowed an appeal to the next term of the circuit court, where said case shall stand for trial de novo: Provided, also, Thirty days' notice shall have been given to the opposite party, issued by the clerk of the court and served by the sheriff of the county.

Sec. 11.. Be it further enacted, That the jurors trying said case shall take the following oath, which oath the sheriff is authorised to administer: "You and each of you do swear (or affirm as the case may be) that you will well and truly try the case now pending and submitted to your decision between A. B., complainants, and the president and directors of the Alabama and Tennessee River Railroad Company, defendants, and that you will take into consideration the advantages and value which the construction of the railroad may give to land or other property, as well as the injury said land or other property may sustain by its construction through or near which it may be constructed: So help you God."

Oath of jury.

Sec. 12. Be it further enacted, That the said lands or other property when so condemned and estimated as aforesaid, shall enure to and become the property of said company forever, upon the payment by said company of the amount assessed by said jury to the party claiming damages on account of the construction of said road through said lands, or for such other property: Provided, That said work shall in no wise be delayed on account of the proceedings had as aforesaid.

Lands shall vest.

Sec. 13. Be it further enacted, That in case any person shall willfully injure or obstruct in any degree the said road or roads, he shall forfeit and pay to the president and directors of said company three times the amount of all damages they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided by law for individuals in like cases; and on complaint made to any magistrate within whose jurisdiction such offence shall be committed, it shall be the duty of such magistrate to bind the person or persons so offending with sufficient security for his or their good behaviour for a period of not less than one year; and such offender shall also be subject to indictment, and shall be sentenced at the discretion of the court to be imprisoned not less than three nor more than six months.

Penalty for injuring road.

Sec. 14. Be it further enacted, That in the construc-

tion of said railroad, the president and directors of said company shall not in any way or manner obstruct any public road now established, but shall provide convenient passages to travel over said road.

Restriction.

Sec. 15. Be it further enacted, That payment of subscription to the stock in said railroad may be made in the materials, labor provisions and all and every thing necessary for the construction of said road, which the board of directors at their discretion may deem expedient to accept.

Payment of stock.

Sec. 16. Be it further enacted, That after the completion of said road, or any part thereof, the said president and directors may lay and collect tolls from all persons, property, merchandise and other commodity transported thereon: Provided, The net profits of said road shall never exceed twenty-five per cent. per annum.

May collect toll.

Sec. 17. Be it further enacted, That the general assembly reserve the right and power to authorise the construction of any railroad to cross the one authorised by this act at any point the general assembly may think proper.

Reservation.

Sec. 18. And be it further enacted, That nothing in this act shall be so construed as to confer upon said company any right to exercise the powers of a banking company, or to issue any description of paper of evidences of debt intended as circulation.

Restriction.

Approved, February 9, 1852.

[No. 126.]

AN ACT

To incorporate the Eufaula Railroad Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama and General Assembly convened, That John McNab, Bertram J. Hoole, Edward B. young, John Hart, Selden S. Walkley, William L. Cowan, Cullen Battle, Reuben C. Shorter, Eli S. Shorter, Clayton R. Roods, Duncan McNab, Jefferson Buford, James L. Pugh, Ransom Edwin, Charles D. Laney, Zadock J. Daniel, Lewis J. Leaird, John Colby, Thomas Flournoy, William H. Thornton, N. Montross Hyatt, John N. Copeland and Edward C. Bullock, or such of them as shall accept this charter, with their associates, successors and assigns, are constituted a body politic and corporate by the name of "The Eufaula Railroad Company;" and by that name to sue and be sued, plead and be impleaded in any court in this state, to make and have a common seal, and the same to break, alter or renew at pleasure; and said corporation is hereby vested with all powers, privileges, and immunities which are or may be ne-

Corporators.

Name and style.

cessary to carry into effect the purposes and objects of this act; and said company is hereby authorised and empowered to locate, construct and finally complete a single, double or triple railroad or way from some suitable point in or near the town of Eufaula, in Barbour county, to the Chattahoochee river, at any point on the bank of said river where the South-western Railroad of the state of Georgia shall cross said river, whether it cross the river at a point within the corporate limits of the town of Eufaula, or above or below said town; and to transport, take or carry property or persons upon said road by force of steam, of animal or other power, or of any combination of them. Said corporation is authorised to lay out said road, not exceeding one hundred feet wide through the whole length; and for the purposes of depots, cuttings and embankments and necessary turn-outs, and to obtain stone, gravel and earth, may take as much more land as may be necessary for the construction and security of said road, with permission to make any lawful contract with any other railroad corporation or other person in relation to the business of said first named corporation, and also to make joint stock with any other railroad corporation: Provided, That all damages that may be occasioned to any person, by the taking of any such land or materials as aforesaid, shall be paid for by said first named corporation in manner hereinafter provided for.

General and corporate powers.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed two hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each; which shares shall be deemed personal property, and be transferred in such manner at such places as the by-laws of said company shall direct.

Capital stock.

Sec. 3. Be it further enacted, That all the parts, provisions, clauses and sections of an act entitled "an act to incorporate the Mobile and Ohio Railroad Company," approved, February 3, A.D. 1848, except the first, second and last sections of said act, be and the same are hereby made applicable to said first named corporation, and are made a part of this act as fully as if the same were herein fully set forth and repeated: Provided, That any incongruity thereby appearing shall be construed in reference to the scope and intent of this act, and so to promote the object thereof.

Powers of the Mobile and Ohio Railroad Co. conferred.

Proviso.

Sec. 4. And be it further enacted, That if the said railroad shall not be commenced in five years from the passage of this act, and shall not be finished in ten years from the time of the commencement thereof, then this act shall be null and void.

Commencement and completion of road.

Approved, February 9, 1852.



[No. 127.]

## AN ACT

To incorporate the Russel Railroad Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Issac Adair, John D. Adair, James B. Reese, Henry M. Crowder, James Holland, James Allen, S. M. Ingersoll, Randolph L. Mott and D. W. Floyd, with such other persons as shall associate with them for that purpose, are constituted a body politic and corporate by the name of "The Russell Railroad Company;" and by that name to sue and be sued, to plead and be impleaded in any court of this state, to make and to have a common seal, and the same to break, alter or renew at pleasure; and the company is hereby vested with all powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act hereafter set forth; and said company is hereby authorised and empowered to locate, construct and finally complete a single, double or triple railroad or way from some suitable point on the Chattahoochee river, in the county of Russell, to a suitable point on the Montgomery and West Point railroad, either in the counties of Chambers, Russell or Macon, on such route as shall be deemed most expedient, and to transport, take and carry upon said railroad or way by the power and force of steam, or animals, or other mechanical or other power, or any combination of them which said company may choose to apply; and for the purpose of construction said railroad or way, the said company is hereby authorised to lay out their road not exceeding one hundred feet wide through the whole length; and for the purposes of depots, cuttings, and embankments, and for the purposes of necessary turn-outs, and for obtaining stone or granite, may take as much more land as may be necessary for the construction and security of said road, with permission to make any lawful contact with any other railroad corporation in relation to the business of said company, and also to make joint stock with any other railroad corporation: Provided, That all damages that may be occasioned to any person or corporation by taking any such land or materials aforesaid for the purposes aforesaid shall be paid for by said company in manner hereinafter provided.

Corporators.

Name and style.

General corporate powers.

Sec. 2. Be it further enacted, That the capital stock of said company may be six hundred thousand dollars in shares of one hundred dollars each.

Capital stock.

Sec. 3. Be it further enacted, That as soon as fifty

thousand dollars shall have been subscribed, the commissioners hereby appointed shall call a general meeting of the subscribers at such time and place as they may appoint; and at such meeting the said subscribers, or a majority of them in value, shall elect seven directors by ballot to manage the affairs of said company; and the commissioners aforesaid, or any three or more of them, shall be judges of said first election of directors; and the directors thus chosen shall elect amongst themselves a president of said company and allow him such compensation as they may think proper; and all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote and act for him or her as his or her proxy.

\$50,000 subscribed  
general meeting of stockholders shall be held and co. shall organise.

Sec. 4. Be it further enacted, That the president and directors of said company shall be chosen annually by the stockholders of said company, and shall hold their office until their successors are duly elected.

Sec. 5. Be it further enacted, That in case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not for that cause be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company; and said directors shall have the power to fill any vacancy which may occur by death, resignation or otherwise.

Annual election.

Sec. 6. Be it further enacted, That said president and directors, or a majority of them, may appoint all such officers, engineers, agents and servants whatsoever as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure; and a majority of them may determine the compensation of all officers, engineers and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company for carrying into effect the objects of this act: Provided only, That such by-laws shall not be contrary to the laws of this state or of the United States; and said president and directors are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of the same with interest.

Election.

Sec. 7. Be it further enacted, That the said president and directors shall have power to require the stockholders of said company to pay such instalments on their respective

Powers of board.

shares of stock in said company and at such time as they may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the instalments required on his or her stock in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale the share or shares of said stock owned by said defaulting stockholder, or such part as they may think proper, to the highest bidder; and if on the sale of the shares of said stock owned by said defaulting stockholder, said stock should be sold for less than the amount due upon instalments as above mentioned, said stockholder shall be liable to pay to the said company the deficiency in manner and form hereinafter specified.

May collect  
stock.

Stockholders  
liable for  
stock.

Sec. 8. Be it further enacted, That upon the failure or refusal of any stockholder to pay any instalment called for or demanded by the president and directors of said company, or if upon sale of said shares as before specified they shall be sold for less than the amount due upon instalments as above mention, the president and directors, on giving thirty days' notice to said defaulting stockholder, may proceed by their attorney to move the circuit court of the county in which said stockholder may reside for judgment against the said stockholder for the amount called for by the president and directors of said company, or as the case may be, for any deficiency that may occur in the sale of said stock as above specified, and said court is hereby authorised and empowered and required to render judgement against said defaulting stockholder at the same term of the court at which said motion is made; which judgment so given shall be a lien upon the real or personal property of said stockholder; and execution shall issue as upon other judgments for the amount of said judgment and cost; and all notices hereby required to be given to any defaulting stockholder shall be issued by and in the name of the secretary of the board of directors and served by the sheriff of the county in which the stockholder may reside and shall be returned to the office of the clerk of the court as in cases of common writs.

Sec. 9. Be it further enacted, That said company is hereby authorised to purchase, receive and hold such estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted, and may by their agents, surveyors, engineers and servants enter upon all lands and tenements through which they may deem it necessary to make said road, and to survey, locate and contract for the land or right of way with the owners through

May acquire  
right of way.

which they may intend to make said road. In case said lands belong to the estate of any deceased person, then with the executor or administrator of such, or in case of the same belonging to a minor or a person non compos mentis, then with his or her guardian or guardians; or in case said lands be held by trustees of school sections, or other trustees of estates, then with said trustees; and the said executors, administrators, guardians and trustees are hereby declared competent for such estates or minors to contract with said company for the right to use, occupy and possess the lands of such estates, minors or trustees so far as may be useful or necessary for the purpose of said railroad; and the act and deed of such executors, administrators, guardians or trustees in relation thereto shall pass the title in said land in the same manner as if the deed or act was made or done by a legal owner of full age; and such executor, administrator, guardian or trustee shall account to those interested upon their respective bonds for the amount paid him or them in pursuance of such agreement and composition; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire in case of disagreement, shall vest title according to its terms.

Sec. 10. Be it further enacted, That if the said company cannot agree with the owner of the land through which they desire the road to pass, or with the executor, administrator, guardian, or trustee, it shall and may be lawful for the clerk of the circuit court of the company in which said land lies, on the application of said company or its agents, and he is required to issue a writ of ad quod damnum, commanding the sheriff that without delay he cause a jury of six good and lawful men to be upon such land on a day to be by said sheriff fixed and appointed, and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian or trustee, at least five days before such day, if they be within his county; of if not, or the owner or owners be unknown, the notice shall be given by advertisement, to be by said sheriff posted and fixed at the dwelling-house, if such there be, or on a public or conspicuous place, at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the land at least three weeks by weekly insertions prior to said day, and then cause said jury, after being duly sworn by the sheriff or justice of the peace, to make true inquest of the damage that will be sustained by such owner or estate by reason of making said road

Proceedings  
when com'py  
and owner of  
land cannot  
agree.

through such land. If any such juror shall fail to appear, or by reason of challenge for cause or otherwise, fail to sit on said inquest, the said sheriff shall fill said jury from the bystanders; and if they fail to render a verdict, the said sheriff shall again, on the same or a subsequent day, empanel a new jury or jurors until a verdict be had; such verdict and inquest regularly certified, by such a sheriff shall be returned to the office of the clerk of the circuit court of the county in which said land may lie and there remain among the records; and such verdict shall vest in said company the right to occupy and use such land for the purposes of said railroad on the payment or tender of payment of the damages thereon assessed against said company; and in cases of persons absent or unknown as aforesaid, the placing of the amount of such damages to the credit of the owner in the hands of the probate judge of the county in which said lands may lie shall be deemed and taken as payment and such judges shall be liable on their bonds to make due payment of said money on demand.

Sec. 11. Be it further enacted, That the jurors trying said case shall take the following oath, which oath the sheriff is hereby authorised to administer: "You and each of you do swear (or affirm as the case may be) that you will well and truly try the case now pending and submitted to your decision between A.B., complainants, and the president and directors of the Russell Railroad Company, defendants, and that you will take into consideration the advantages and value which the construction of the railroad may give to lands or other property, as well as the injury said land or other property may sustain by its construction through or near which it may be constructed: So help you God."

Oath of jury.

Sec. 12. Be it further enacted, That the work of survey, locating and constructing said railroad shall in no wise be hindered or delayed on account of the proceedings had as aforesaid.

Work shall not be hindered.

Sec. 13. Be it further enacted, That in case any person shall willfully injure or obstruct the said railroad in any degree, he shall forfeit and pay to the president and directors of said company three times the amount of the damages they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided for by law for individuals in like cases; and on complaint made to any magistrate within whose jurisdiction such offence shall be committed, it shall be the duty of such magistrate to bind the person or persons so offending with sufficient

Penalty for injuring road.

security for his or their good behavior for a period not less than one year; and such offender shall also be subject to indictment, and shall be sentenced at the discretion of the court to be imprisoned not less than three or more than six months.

Sec. 14. Be it further enacted, That whenever it shall be necessary for the construction of their railway to intersect or cross any stream of water or water course, or any road or highway, it shall be lawful for said company to construct across or upon the same; but said company shall restore the said stream or water course, or road or highway thus intersected to its former state or in sufficient manner not to impair its usefulness; and in all cases when any road or public highway is so located that said railroad cannot be judiciously laid out and constructed across or upon the same without interfering therewith, in such case or cases said corporation may by their engineer cause such roads to be changed or altered in such manner that said railroad may be made on the best site of ground for that purpose; Provided, Such road shall be put by said corporation in as good repair as at the time of changing or altering the same.

May cross water course or public road.

Proviso.

Sec. 15. And be it further enacted, That after completion of said road or any part thereof, the said president and directors may levy and collect tolls thereon from all persons, property, merchandise and other commodities transported thereon: Provided, Said railroad be commenced within two years and completed within five years from the passage of this act.

May collect toll.

Approved, February 10, 1852.

[ No. 128. ]

AN ACT

To incorporate the Montgomery and Mobile Railroad Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Charles T. Pillard, George Goldthwaite, Francis M. Gilmer, Jr., John H. Murphy, John P. Figh and Thomas M. Cowles, of the county of Montgomery, T. B. Goldsby, P. J. Weaver and J. W. Lapsley, of Dallas, R. S. Hardaway, of Russell, Arnold Seales, of Macon, William Jones, Jr., P. Phillips, Francis Clarke, Jacob Magee, and William F. Cleveland, of the county of Mobile, with such other persons as shall associate with them for that purpose, are con-

Corporators.



stituted a body politic and corporate by the name of "The Montgomery and Mobile Railroad Company;" and by that name to sue and be sued, plead and be impleaded in any court of this state, to make and have a common seal, and the same to break, alter or renew at pleasure; and the company is hereby vested with all powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act hereinafter set forth; and said company is hereby authorised and empowered to locate, construct and finally complete a single or double track railroad, with a guage of five feet, and on such route as shall be deemed most expedient and proper to accomplish the junction of said two cities, and to transport, take and carry property and persons upon said railroad or way by the power and force of steam, of animals, or of any mechanical or other power, or any combination of them which said company may choose to apply; and for the purpose of constructing said railroad or way, the said company is hereby authorised to lay out their road not exceeding one hundred and fifty feet in width through the whole length; and for purposes of depots, cuttings and embankments and for the construction of the necessary sidings and turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for construction, convenience and security of said road, with permission to make any lawful contracts with any other railroad corporation in relation to the business of said company, and also to make joint stock with any other railroad corporation: Provided, That all damages that may be occasioned to any person or corporation by taking any such land or material aforesaid for the purpose aforesaid, shall be paid for by said company in the manner hereinafter provided.

Sec. 2. Be it further enacted, That the capital stock of said company may be one million of dollars, in shares of one hundred dollars each, with the privilege of increasing to three millions, should increase be found necessary for its successful operation and future management.

Sec. 3. Be it further enacted, That said railroad shall extend from the city of Montgomery to the city of Mobile, crossing the Alabama or Tensaw at such place where said crossing would be found most practicable for running into said city of Mobile, either by a junction with the Mobile and Ohio railroad, for which authority is hereby given, or by any other route on the western bank of the river, as may be deemed most advisable.

Name and style.

General and corporate powers.

Capital stock.

Extent and route of road.

Sec. 4. Be it further enacted, That the persons named in the first section, or any three of them, shall open books to receive subscriptions to the capital stock of said company at such times and places as they, or a majority of them, may appoint, and shall give such notice of the times and places of opening said books as they may deem reasonable, and shall receive said subscriptions under such regulations as they may adopt for the purpose; and whenever the sum of one hundred thousand dollars shall have been subscribed, the commissioners hereby appointed, or a majority of them, shall call a meeting of the subscribers at such time and place as they may appoint; and at such meeting the said subscribers, or a majority of them in value, shall elect seven directors by ballot to manage the affairs of said company; and the commissioners aforesaid or any three or more of them shall be judges of said first election of directors; and the directors thus chosen shall elect amongst themselves a president of said company and allow him such compensation as they may think proper; and on all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote and act for him or her as his or her proxy.

Books of subscriptions shall be opened.

Meeting of stockholders.

Sec. 5. Be it further enacted, That the president and directors of said company shall be chosen annually by the stockholders of said company; and if any vacancy shall occur by death, resignation or otherwise, of any president or directors before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them; and that the president and directors shall hold their offices until their successors are chosen and qualified; shall have power to call meetings of stockholders at any time; and a majority of the stockholders shall have power to remove the president or any director and to fill all vacancies occasioned by removal at pleasure; and that in all elections for president and directors, and in all votes for the removal of officers as above provided, the vote shall be taken by ballot.

Annual election of stockholders.

Sec. 6. Be it further enacted, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure; and a majority of them shall determine the compensation of all officers, engineers and servants of said company; shall have power to

Powers of board.

pass all by-laws which they may deem necessary and proper for the exercising all powers vested in said company for carrying into effect the objects of this act: Provided only, That such by-laws shall not be contrary to the laws of this state of of the United States; and said president and directors, or a majority of them, are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of the same with interest

Sec. 7. Be it further enacted, That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company at such times and in such proportions and upon such conditions as they may deem fit; and in case any stockholder shall refuse or neglect to make payment pursuant to the requisition of the board of directors, the stock of such stockholder, or so much as shall be necessary, may be sold by the directors of said corporation at public auction after the lapse of ninety days from the time when the payment became due; and the surplus money, the avails of such sale, after deducting the payments due and interest thereon and the necessary expenses of sale, shall be paid over to such delinquent stockholder; or if on the sale of said shares as before specified they shall be sold for less than the amount due upon the instalment as above mentioned, the president and directors, upon giving twenty days' notice to said defaulting stockholder, may proceed by their attorney to move the circuit court of the county in which said stockholder may reside for judgment against the said stockholder for the amount called for by the president and directors of said company, or as the case may be, for any deficiency that may occur in the sale of said stock; and said court is hereby authorised and empowered and required to render judgment against said defaulting stockholder at the same term of the court at which said motion is made; which judgment so given shall be a lien on the real or personal property of said stockholder, and execution shall issue as upon other judgments for the amount of said judgment and costs; and all notices hereby required to be given to any defaulting stockholder shall be issued by and in the name of the secretary of the board of directors and served by the sheriff of the county in which the stockholder may reside, and shall be returned to the office of the clerk of the court as in cases of common writs; and the sheriff shall be entitled to one dollar for serving said notice, which, with all the costs that

May require  
payment of  
stock.

may accrue on said proceedings, shall be paid by the party against whom judgment may be rendered.

Sec. 8. Be it further enacted, That said company is hereby authorised to purchase, receive and hold such estate as may be necessary and convenient in accomplishing the objects for which this incorporation is granted, and may, their agents, surveyors, engineers and servants, enter, upon all lands and tenements through which they may deem it necessary to make said road, and to survey, lay out and construct the same, and to agree and contract for the land or right of way with the owners through which they may intend to make the said road; and in case said lands belong to the estate of any deceased person, then with the executor or administrator of such; or in case of the same belonging to a minor, or a person non compos mentis, then with his or her guardian or guardians; or in case said lands belong to the trustees of school sections, or other trustees of estates, then with such trustees; and the said executors, administrators, guardians and trustees are hereby declared competent for such estate or minors to contract with said company for the right to use, occupy and possess the lands of such estates, minors or trustees, so far as may be useful or necessary for the purposes of said railroad; and the act and deed of such executors, administrators, guardians or trustees in relation thereto shall pass the title in said land in the same manner as if the said deed or act was made or done by a legal owner of full age; and such executor, administrator, guardian or trustee shall account to those interested upon their respective bonds for the amount paid him in pursuance of such agreement and compensation; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire in case of disagreement, shall vest title according to its terms.

May hold estate  
and acquire  
right of way.

Sec. 9. Be it further enacted, That if the said company cannot agree with the owner of the land through which said road is desired to pass, or with the executor, administrator, guardian or trustee, it shall and may be lawful for the clerk of the circuit court of the county in which said land lies, on the application of said company or its agents, and he is required to issue a writ of ad quod damnum, commanding the sheriff that without delay he cause a jury of six good and lawful men to be upon such land upon a day to be by said sheriff fixed and appointed, and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian or trustee at least five days before such day, if they be within

When co'y. and  
owner of pro-  
perty cannot  
agree.

Proceedings to  
be held.

his county; or if not, or if the owner or owners be unknown, then notice shall be given by advertisement, to be by said sheriff posted and fixed at the dwelling house, if such there be, or on a public or conspicuous place, at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the land at least three weeks by weekly insertions prior to said day, and then cause said jury, after being duly sworn by said sheriff or justice of the peace, to make true inquest of the damage that will be sustained by such owner or estate by reason of making said road through said land. If any such juror shall fail to appear, or by reason of challenge for cause or otherwise, fail to sit on said inquest, the said sheriff shall fill said jury from the bystanders; and if they fail to render a verdict, the said sheriff shall again, on the same or a subsequent day empanel a new jury or jurors till a verdict be had; such verdict and inquest regularly certified by such sheriff shall be returned to the office of the clerk of the circuit court of the county in which said land may be and there remain among the records; and verdict shall vest in said company the right to occupy and use such land for the purposes of said railroad on the payment or tender of payment of the damages thereon assessed against said company; and in cases of persons absent or unknown as aforesaid, the placing of the amount of such damages to the credit of the owner in the hands of the probate judge of the county in which such lands may lie shall be deemed and taken as payment, and said judges shall be liable on their bonds to make due payment of said money on demand.

Sec. 10. Be it further enacted, That it shall be the duty of the sheriff to appoint and hold said inquest within five days after the receipt of said writ ad quod damnum, except in cases of absence aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed him for every additional jury which he may have under such writ; and for every default therein the said sheriff shall be fined by the circuit court, at the instance of either party, not less than twenty nor more than one hundred dollars; and every juror and witness summoned shall be fined not less than ten dollars for non-attendance; and all such fines as well as costs the circuit court of the county shall have jurisdiction. There shall exist in either party a right to appeal to the next term of the circuit court, upon filing bond with good and sufficient security in such sum as the court may order, should they be dissatisfied with the verdict of the jury summoned to decide the dam-

Sheriff shall  
hold inquest.

ages. In all such appeals the case shall stand for trial de novo: Provided, Thirty days' notice shall have been given to the opposite party, issued by the clerk of the court and served by the sheriff of the county: Provided further, That before the application for the writ of ad quod damnum the said company may make a tender to the owner or owners of any such land a sum of money by them deemed equivalent to the damages to be sustained, and upon refusal to accept the sum tendered, and a verdict for the same amount or a less sum, the costs shall be taxed to and paid by the owners of the land upon which inquest is held or in reference to which an appeal has been taken from the verdict of the jury.

Sec. 11. Be it further enacted, That the jury trying said case shall take the following oath, which oath the sheriff hereby is authorised to administer: "You and each of you do swear ( or affirm as the case may be) that you will well and truly try the case now pending and submitted to your decision between A. B., complainants, and the president and directors and company, defendants, and that you will take into consideration the advantages and value which the construction of the railroad or way may give to the lands or other property, as well as the injury said lands or other property may sustain by its construction through or near which it may be constructed: So help you God." And that the same oath be administered to jurors summoned in the first instance to decide the damages.

Oath of jury.

Sec. 12. Be it further enacted, That the operation of said railroad company in surveying, locating or constructing the road or other work shall in no wise be delayed on account of the proceedings had as aforesaid.

Work shall not be delayed.

Sec. 13. Be it further enacted, That if any person or persons will or shall willfully do or cause to be done any act or acts whatsoever whereby any building, construction or work of said company, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said company double the amount of damages sustained by reason of such offences or injury, to be recovered in the name of said corporation, with costs of suit by action of debt.

Penalty for injuring road.

Sec. 14. Be it further enacted, That whenever it shall be necessary for the construction of their railroad to intersect or cross any stream of water or water course, or any road or highway, it shall be lawful for said company to con-

Crossing water courses or roads.



struct across or upon the same, but the said company shall restore the said stream or water course or road or highway thus intersected to its former state, or in sufficient manner not to impair its usefulness; and in all cases when any road or highway is so located that the said railroad cannot be judiciously laid out and constructed across or upon the same without interfering therewith, in such case or cases said corporation may, by their engineer, cause such road or roads to be changed or altered in such manner that said railroad may be made on the best ground for that purpose; Provided, Said corporation shall put such road in as good repair as at the time of changing or altering the same.

Sec. 15. Be it further enacted, That it shall be lawful for the company hereby incorporated from time to time to fix, regulate and receive the toll and charges by them to be received for transportation of persons or property on their railroad hereby authorised to be constructed, erected, built, or used, or upon any part thereof.

May collect  
toll.

Sec. 16. Be it further enacted, That said company shall have the right, under the same rules, regulations and restrictions, and with the like privileges and immunities as herein granted to the main railroad, to build and construct branch railroads, on either side of said main road, in any of the counties through which the main road may pass; and shall have power to erect and maintain toll houses and other buildings for the accomodation of their business, as they may deem suitable for their interests.

May construct  
branch road.

Sec. 17. Be it further enacted, That the Giarard and Mobile Railroad, or anyother road heretofore chartered by the state may connect at any point withthis road.

Other roads may  
connect.

Sec. 18. And be it further enacted, That nothing in this act shall be construed as to permit the company to interfere with any of the rights and privileges of other incorporated companies without their assent.

Restriction.

Approved, February 9, 1852.

[No. 129.]

AN ACT

To charter the Wills Valley Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Humphrey McBrayer, William P. Scott, Lewis Rea, Thomas G. A. Cox, Richard Ramsey, Charles Stowers, A. J. Chaney, Thomas A. Patrick, Samuel M. Nicholson, Obediah W. Ward, M. C. Newman, Alfred Collins, Charles D.

Comm'rs to open  
books of sub-  
scription to  
capital stock.

George, Stephen McBroom, A. J. Ward, Reuben Estes, John G. Winston, John M. Bruce, John M. Lankford, Jesse G. Beeson, Joseph Davenport, Hiram Allen, V. C. Larmore, William O. Winston, Jacob Beene, B.F. Porter, John J. Humphries, George W. White, Gaines Blevins, Daniel B. Buckhalter and Jacob Putman, of DeKalb county, be and they are hereby appointed commissioners, any seven of whom shall be competent to act and do all business necessary to be done by virtue of this act of incorporation; and they shall open books of subscription for the capital stock of the Wills Valley Railroad Company at such time and place, with such notices as they may think proper: Provided, The same be not less than thirty days.

Sec. 2. Be it further enacted, That the capital stock of said railroad company may be three hundred thousand dollars, in shares of fifty dollars each, with the privilege of increasing the same, should said increase be found necessary for its construction and further management.

Capital stock.

Sec. 3. Be it further enacted, That said railroad shall extend from some convenient point on the Alabama and Tennessee River Railroad, at or near the farm of James Hampton, thence the most practicable route through the county of DeKalb to the Georgia line, in a direction to intersect the Georgia and Tennessee Railroad at some convenient point in Lookout Valley.

Route of road.

Sec. 4. Be it further enacted, That as soon as fifty thousand dollars shall have been subscribed to the capital stock of said company, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company by the name of "The Wills Valley Railroad Company;" and by that name shall be capable in law of purchasing, holding, leasing, selling and conveying real, personal and mixed property so far as shall be necessary for the purpose of this incorporation; and by said incorporated name may sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this state or elsewhere, and have and use a common seal, and the same to alter or amend at pleasure; to pass such by-laws, rules and ordinances for the good government of said corporation as to them may seem proper, and generally do all things necessary to carry into effect fully and completely the objects of this act.

\$50,000 subscribed, company may organize.

Name and style.

Corporate powers.

Sec. 5. Be it further enacted, That as soon as fifty thousand dollars shall have been subscribed, the commissioners hereby appointed shall call a general meeting of the subscribers at such time and place as they may appoint;

\$50,000 subscribed, a meeting may be called.

and at such meeting the said subscribers, or a majority of them in value, shall elect nine directors by ballot to manage the affairs of said company; and the commissioners as aforesaid, or any three or more of them, shall be judges of said first election of directors; and the directors thus chosen shall elect among themselves a president of said company and allow him such compensation as they may think proper; and on all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote and act for him or her as his or her proxy.

Sec. 6. Be it further enacted, That the president and directors of said company shall be chosen annually by the stockholders of said company; and if any vacancy shall occur by death, resignation or otherwise of any president or director before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them; and that the president and directors shall hold their offices until their successors are chosen and qualified; shall have power to call meetings of stockholders at any time; and a majority of stockholders shall have power to remove the president or any director and to fill all vacancies occasioned by removal at pleasure.

Elections annual.

Sec. 7. Be it further enacted, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever as they may deem necessary to carry on the business of said company, may dismiss them at pleasure; and a majority of them shall determine the compensation of all officers, engineers and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company for carrying into effect the object of this act: Provided only, That such by-laws shall not be contrary to the laws of this state or of the United States; and said president and directors, or a majority of them, are empowered to borrow money to carry into effect the object of this act, to issue certificates or other evidence of such loan, and to pledge the property of said company for the payment of the same with interest.

Powers of board.

Sec. 8. Be it further enacted, That the president and directors shall have power to require the stockholders of said company to pay such instalments on their respective shares of stock in said company and at such time as they

Calling in stock.

may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the instalment on his or their stock, in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale the share or shares of said stock owned by such stockholders, or such part as they may think proper, to the highest bidder; and if upon the sale of said shares of said stock owned by said defaulting stockholder, said stock should be sold for less than the amount due upon instalment as above mentioned, said deficiency in manner and form hereafter specified.

Sec. 9. Be it further enacted, That upon the failure of refusal of any stockholder to pay any instalment called for or demanded by the president and directors of said company, or if upon the sale of said shares as before specified, they shall be sold for less than the amount due on instalment as above mentioned, the president and directors, upon giving thirty days' notice to said defaulting stockholder, may proceed by their attorney to move the circuit court of the county in which said stockholder may reside for judgment against said stockholder for the amount called for by the president and directors of said company, or as the case may be, for any deficiency that may occur in the sale of said stock as above specified; and said court is hereby authorised and empowered and required to render judgment against said defaulting stockholder at the same term of the court at which said motion is made; which judgment so given shall be a lien on the real and personal property of said stockholder, and execution may issue as upon other judgments and costs; and all notices hereby required to be given to any defaulting stockholder shall be issued by and in the name of the secretary of the board of directors, and served by the sheriff of the county in which office of the clerk of the court as in case of common writs; and the sheriff shall be entitled to one dollar for serving said notice, which, with all costs that may occur on said proceedings, shall be paid by the party against whom judgment may be rendered.

Liability of  
stockholders.

Sec. 10. Be it further enacted, That the president and directors of said company are hereby authorised to contract for and receive conveyances of land, stone, timber and wood which may be necessary or required in the construction of said railroad; and when the owner and com-

May acquire  
right of way.

pany cannot agree upon the price, or when the owner is an infant, non-resident, or non compos mentis, then it shall be lawful for the president and directors of said company to apply to the sheriff of the county in which said land or other property may be situated, who shall summon a jury of seven disinterested freeholders, a majority of whom shall be authorised to assess the damages and return the award or judgement to the next term of the circuit court for the county in which said land or property may be situated, which shall be entered by the clerk as the judgment of the court, and execution may issue thereupon for the amount of said judgment and costs; Provided always, That if either party shall upon the return thereof be dissatisfied, they may, upon filing bond with good and sufficient security in such sum as the court may order, be allowed an appeal to the next term of the circuit court where said case shall stand for trial de novo: Provided, Thirty days' notice shall have been given to the opposite party, issued by the clerk of the court and served by the sheriff of the county.

Sec. 11. Be it further enacted, That the jury trying said case shall take the following oath, which oath the sheriff is hereby authorised to administer: "You and each of you do swear (or affirm as the case may be) that you will well and truly try the case now pending and submitted to your decision between A. B., complainants, and the president and directors of the Willis Valley Railroad Company, defendants, and that you will take into consideration the advantages and value of which the construction of the road may give to lands other property, as well as the injury said lands or other property may sustain by its construction through or near which it may be constructed: So help you God."

Oath of jury.

Sec. 12. Be it further enacted, That the said lands or other property when so condemned and estimated as aforesaid shall inure to and become the property of said company forever, upon the payment of said company of the amount assessed by said jury to the party claiming damages on account of the construction of said road through said land, or for such other property: And provided further, That said work shall in no wise be delayed on account of the proceedings had as aforesaid.

Lands and other property shall vest.

Sec. 13. Be it further enacted, That in case any person shall willfully injure or obstruct in any degree the said road, he shall forfeit and pay to the president and directors of said company three times the amount of all dam-

Penalty for injury to road.

ages they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided by law for individuals in like cases; and on complaint made to any magistrate within whose jurisdiction such offences shall be committed, it shall be the duty of such magistrate to bind the person or persons so offending with sufficient security for his or their good behaviour for a period not less than one year; and such offender shall also be subject to indictment and shall be sentenced at the discretion of the court to be imprisoned not less than three nor more than six months.

Sec. 14. Be it further enacted, That in the construction of said railroad, the president and directors of said company shall not in any way or manner obstruct any public road now established, but shall provide convenient passages to travel over said road.

Restriction.

Sec. 15. Be it further enacted, That payment of the subscription to the stock in said railroad may be made in the materials, labor, provisions and all and every thing necessary for the construction of said road, which the board of directors at their discretion may deem expedient to accept.

Stock may be paid in labor.

Sec. 16. Be it further enacted, That after the completion of said road, or any part thereof, the said president and directors may lay and collect tolls from all persons, property, merchandise and other commodity transported thereon; Provided, The net profits of said road shall never exceed twenty-five per cent per annum.

May collect tolls.

Sec. 17. And be it further enacted, That nothing in this act shall be so construed as to confer upon said company any right to exercise the powers of a banking company or to issue any description of paper or any evidences of debt intended as circulation.

Restriction.

/ No. 130. /

# AN ACT

To incorporate the Florence and Nashville Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Thomas M. Foster, James H. Weakley, James Irvine, L. P. Walker, Samuel D. Weakley, Abram Deams, Daniel Bently, William McKnight, R. H. Rose, Samuel A. Ham-

Commissioners to open books.



ner, Gideon J. Pillow, James Aikin, Samuel D. Morgan, James Walker and Edwin W. Kickman be and they are hereby appointed commissioners to open books and receive subscriptions for stock in a railroad to be constructed from the town of Florence to the city of Nashville, Tennessee, any three of whom may open books in the towns of Florence Lawrenceburg, Mt. Pleasant, Columbus, Nashville and such other places as they may think proper, and keep the same open until the whole capital stock is subscribed; and they shall give public notice of the times and places of opening said books, not less than twenty days, as they may think proper.

Sec. 2. Be it further enacted, That the capital stock of said company shall be three hundred thousand dollars, with the privilege of increasing it to twelve hundred thousand dollars, should said increase be found necessary for its construction and future management and that each share of the capital stock of said company shall represent twenty-five dollars.

Capital stock.

Sec. 3. Be it further enacted, That said road shall extend from the town of Florence to some point on the boundary line between the States of Tennessee and Alabama, in the direction to Nashville, at which point said railroad may meet and connect with a road leading to Nashville.

Extent of road.

Sec. 4. Be it further enacted, That as soon as one hundred thousand dollars shall have been subscribed to the capital stock of said company, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company by the name of "The Florence and Nashville Railroad Company;" and by that name shall be capable in law of purchasing, holding, leasing and conveying real, personal and mixed property, so far as shall be necessary for the purposes of this incorporation; and by said incorporated name may sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this state or elsewhere, and to have and use a common seal, and the same to alter or amend at pleasure; to pass such by-laws, rules and ordinances for the good government of said corporation as to them may seem proper, and generally do all things necessary to carry into effect fully and completely all the objects of this act.

\$100,000 subscribed, company may organise.

Sec. 5. Be it further enacted, That as soon as one hundred thousand dollars shall have been subscribed, the commissioners hereby appointed shall call a meeting of the subscribers at such time and place as they may appoint; and at such meeting the said subscribers, or a majority of them in

Duty of com'rs.

value, shall elect nine directors by ballot to manage the affairs of said company; and the commissioners aforesaid, or any three or more of them, shall be judges of said first election of directors; and the directors then chosen shall elect among themselves a president of said company and allow him such compensation as they may think proper; and on all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote or act for him or her as his or her proxy.

Sec. 6. Be it further enacted, That the president and directors of said company shall be chosen annually by the stockholders of said company; and if any vacancy shall occur by death, resignation or otherwise, of any president or director, or directors, before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them; and that the president and directors shall hold their offices until their successors are chosen qualified; shall have power to call meetings of stockholders at any time; and a majority of stockholders shall have power to remove the president or any director and to fill all vacancies occasioned by removal at pleasure.

Officers shall  
be chosen annua-  
lly.

Sec. 7. Be it further enacted, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever as they may deem necessary to carry on the business of said company, and dismiss them at pleasure; and a majority of them shall determine the compensation of all officers, engineers and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company for carrying into effect the object of this act; and said president and directors, or a majority of them, are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of the same with interest.

May appoint  
officers.

Sec. 8. Be it further enacted, That the said president and directors shall have power to require the stockholders of said company to pay such instalments on their respective shares of stock in said company and at such times as they may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the instalment required on his, her or their stock, in pursuance of any

May call in  
stock.

call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale the share or shares of said stock owned by said stockholder, or such part as they may think proper, to the highest bidder; and if upon the sale of the shares of such stock owned by said defaulting stockholder said stock should be sold for more than the amount due upon instalments above mentioned, the excess, after deducting accruing interest and the necessary expenses of sale, shall be paid over to said defaulting stockholder.

Sec. 9. Be it further enacted, That the president and directors of said company are hereby authorised to contract for and receive conveyances of land, stone, timber and wood which may be necessary or required in the construction of said railroad; and when the owner and company cannot agree upon the price, or when the owner is an infant, non-resident, or non compos mentis, then it shall be lawful for the president and directors of said company to apply to the sheriff of the county in which said land or other property is situated, who shall summon a jury of seven disinterested freeholders, a majority of whom shall be authorised to assess the damages and return their award or judgment to the next term of the circuit court for the county in which said land or other property may be situated, which shall be entered by the clerk as the judgment of the court, and execution may issue thereupon for the amount of said judgment and cost: Provided always, That if either party shall upon the return thereof be dissatisfied, they may, upon filing bond with good and sufficient security in such sum as the court may require, be allowed an appeal to the next term of the circuit court, when said case shall stand for trial de novo: Provided also, That thirty days' notice shall have been given the opposite party issued by the clerk of the court and served by the sheriff of the county.

May acquire  
right of way.

Sec. 10. Be it further enacted, That the jurors summoned as aforesaid shall, before proceeding to discharge the duties herein required, take an oath or affirmation, which the sheriff is hereby authorised to administer, to the effect they will well and truly inquire into and to the best of their judgment assess the damages accruing to the owner or owners of such lands or materials by means of the proposed construction.

Jury.

Sec. 11. Be it further enacted, That the said land or property so condemned and estimated as aforesaid shall inure to and become the property of said company for the purposes aforesaid, upon the payment by the said company of the amount assessed by said jury to the party claiming

Lands, &c.  
vested in  
company.

damages on account of the construction of said road through said lands, or for such other property: Provided, That such work shall in no wise be delayed on account of the proceedings had as aforesaid.

Sec. 12. Be it further enacted, That in case any person shall willfully injure or obstruce in any degree the said road, he shall forfeit and pay to the president and directors of said company three times the amount of all damages they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided by law for individuals in like cases; and on complaint made to any magistrate within whose jurisdiction such offence shall be committed, it shall be the duty of such magistrate to bind the person or persons so offending with sufficient security for his or their good behavior for a period of not less than one year; and such offenders shall also be subject to indictment, and shall be sentenced at the discretion of the court to be imprisoned not less than three nor more than six months.

Penalty for  
injuring road.

Sec. 13. Be it further enacted, That in construction of said railroad the president and directors of said company shall not in any way or manner obstruct any public road not established, but shall provide convenient passages to travel over said road.

Restriction.

Sec. 14. Be it further enacted, That payments of the subscriptions to the stock in said railroad may be made in the materials, labor, provisions and all and anything necessary for the construction of said road, which the board of directors at their discretion may deem expedient to accept.

Stock may be  
paid in labor.

Sec. 15. Be it further enacted, That after the completion of said road, or any part thereof, the said president and directors may lay and collect tolls from all persons, property, merchandise and other commodities transported thereon at such rates as they may deem proper. Provided, The net profits of said road shall not exceed twenty-five per cent. per annum.

May charge and  
collect toll.

Sec. 16. And be it further enacted, That should any organization take place under the provisions of this act, said company are hereby authorized and empowered to form a connection by consolidation or otherwise with the Memphis and Charleston Railroad Company, under an act incorporating said company, approved 7th January, 1850, or with any other company or companies which have been or may be formed under the authority of the legislature of the state of Tennessee, and that all the privileges granted to the

May unite with  
other companies.

Memphis and Charleston Railroad Company shall in such event be extended to the company incorporated by this act.

Approved, February 3, 1852.

/ No. 131. /

# AN ACT

To incorporate the Coosa and Chattooga River Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Newton Randle, James Lawrence, Daniel C. Turrentine, John Croft, William B. Croft, Joseph B. Hughes, Thomas Hollingsworth, William Lay, Martin Had, Benjamin C. Yancy, Thomas B. Cooper, John E. Senter, Richard Berry, son of R., F. L. Brandon, William Bell, John S. Wilson, and John P. Ralls, of the county of Cherokee, with such persons as shall associate with them, are constituted a body corporate by the name of "The Coosa and Chattooga River Railroad Company;" and by that name to sue and be sued, plead and be impleaded in any court of this state, to make and have a common seal, and the same to break, alter or renew at pleasure; and the company is hereby vested with all powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act hereinafter set forth; and said company is hereby authorised and empowered to locate, construct and finally complete a single, double or triple railroad or way, from some suitable point in or near the town of Gadsden, on such route as may be deemed expedient, to some suitable point, so as to connect with a railroad in Georgia, connecting the Tennessee and Alabama River Railroad with the Western and Atlantic Railroad of the State of Georgia; and to transport, take and carry property and persons upon said railroad or way, by the power and force of steam, of animals, or of any other mechanical or other power, or any combination of them which said company may choose to apply; and for the purpose of constructing said railroad or way, the said company is hereby authorised to lay out their road not exceeding one hundred feet wide through the whole length; and for the purposes of depots, duttings and embankments, and for the purposes of necessary turn outs, and for obtaining stone and gravel, may take as much more land as may be

Corporators.

Name and style.

General objects and powers.

necessary for the construction and security of said road, with permission to purchase the stock, materials and right of way, and to make any lawful contract with any railroad company in relation to the business of said company, and also to make joint stock with any other railroad corporation; Provided, That all damages that may be occasioned to any person or corporation by the taking of any such land or materials as aforesaid for the purposes aforesaid, shall be paid for by said corporation in the manner hereinafter provided.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed eight hundredthousand dollars, to be divided into shares of twenty-five dollars each; which shares shall be deemed personal property and be transferable in such manner and at such place as the by-laws of said company may direct: Provided, That said company may organise so soon as shares to the amount of fifty thousand dollars shall have been subscribed, and may then survey and locate the road, but shall not commence the construction thereof until shares to the amount of one hundred and fifty thousand dollars shall have been bona fide subscribed.

Capital stock.

Sec. 3. Be it further enacted, That the persons named in the first section of this act, or a majority of them, shall open books to receive subscriptions to the capital stock of said company at such times and places as they, or a majority of them, may appoint, and shall give such notice of the times and places of opening said books as they may deem reasonable: Provided, The directors may authorise any person to receive subscriptions at any time or place.

Opening books for subscriptions.

Sec. 4. Be it further enacted, That the immediate government and direction of the affairs of said company shall be vested in a board of directors, nine in number, who shall be chosen by the stockholders of said company in manner hereinafter provided, and shall hold office one year, or until others are duly elected and qualified to take their places as directed; and the said directors, five of whom, the president being one, shall be a quorum for the transaction of business, shall elect one of their number to be president of said company; they shall also choose a secretary and such other officers as they may deem necessary: Provided, The treasurer shall be made to give bond with security to the president and directors in such sum as the said board of directors may require for the faithful discharge of his duties.

Government of company.

Sec. 5. Be it further enacted, That the persons authorised by the third section of this act to open books for sub-



scription to the capital stock of said company are hereby authorised after the said books of subscription are closed, or when the sum subscribed shall reach fifty thousand dollars, to call a meeting of the stockholders of said company in such manner and at such time and place as they may appoint for the choice of directors of said company; and in all meetings of the stockholders of said company each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person or by a proxy; and the annual meeting of stockholders of said company for the choice of directors shall be holden at such times and places and upon such notice as the said company in their by-laws may publish.

Meeting of  
stockholders.

Sec. 6. Be it further enacted, That in case it shall so happen that an election of directors shall not be made at any day appointed by the by-laws of said company, said company shall not be for that cause dissolved, but such election may be holden on any day which shall be appointed by the directors of said company; and said directors shall have power to fill any vacancy which may occur by death, resignation, or otherwise.

Election of  
directors.

Sec. 7. Be it further enacted, That the directors shall have full powers to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate and effects of said company not contrary to this charter or the laws of the state and of the laws of the United States, the transfer of shares, the duties and conduct of their officers and servants touching the election and meeting of the directors, and all matters whatsoever; which may appertain to the concerns of said company; said company is also hereby authorised to purchase, receive and hold such estate as may be necessary and convenient to accomplish the object for which this incorporation is granted; and may by their agents, surveyors, engineers and servants enter upon all lands and tenements through which they may deem it necessary to make said road, and to survey and lay out and construct the same, and to agree and contract for the land or right of way with the owners through which they may intend to make said road; in case said lands belong to the estate of any deceased person, then with the executor or administrator of such; or in case of the same belonging to a minor, or a person non compos mentis, then with his or her guardian or guardians; or in case said lands be held by trustees of school funds, or other trustees of estates, then with such trustees, or with mort-

Powers.

gagees or cestui que trusts; and the said executors, administrators, guardians, trustees, mortgagees and cestui que trusts are hereby declared competent to contract with said company for the right to use, occupy and possess the lands held by them respectively, so far as they may be useful or necessary to the purpose of said railroad, the act and deed of such executors, administrators, guardians, trustees, mortgagees and cestui que trusts shall pass the title in said lands in the same manner as if the said deed or act was made or done by a legal owner of full age; and such executors, administrators, guardians, trustees, mortgagees or cestui que trusts shall account to those interested for the amount paid him in pursuance of such agreement and compensation; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire in case of disagreement, vest title shall according to its tenure.

May acquire  
right of way.

Sec. 8. Be it further enacted, That if the said company cannot agree with the owner of the land through which they desire said road to pass, or with the executor, administrator, guardian, trustee, mortgagee, or cestui que trust aforesaid, it shall and may be lawful for the clerk of the circuit court of the county in which such land may lie, on the application of said company, or its agent, and he is required to issue a writ of ad quod damnum, commanding the sheriff that without delay he cause a jury of seven good and lawful men, none of whom shall be land owners or stockholders in said company, to be upon such lands on a day to be by said sheriff fixed and appointed; and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian, trustee, mortgagee, or cestui que trust, at least five days before such day, if they be within his county; and if not, or if the owner or owners be unknown, then notice shall be given by advertisement, to be by said sheriff posted and fixed at the dwelling house, if any such there be, or on a public and conspicuous part of said land, at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the land at least two weeks by weekly insertions prior to said day; and then cause such jury, after being sworn by said sheriff, or some justice of the peace, to make true inquest of the damage suffered by such owner or estate, by reason of making said road through the lands; or estate, by reason of making said road through the lands; If any such jurors fail to appear, or by reason of challenge for cause or otherwise, fail to sit on said inquest, the sheriff shall fill said jury from the bystanders; and they fail to

Proceedings  
when company  
and owner of  
said lands  
cannot agree.

render a verdict, the said sheriff shall again, or on some subsequent day, empanel a new jury or jurors until a verdict be had; such verdict and inquest regularly certified by the sheriff shall be returned to the office of the clerk of the circuit court of the county in which such lands may lie and there remain among the records; and the said inquest shall vest in said company the right to occupy and use such lands for the purposes of said railroad, on the payment or tender of payment of the damages thereon assessed against said company; and in cases of persons absent or unknown as aforesaid, the placing of the amount of said damages in the hands of the judge of the county court of the county where such lands may lie, shall be deemed and taken as payment, and such judges shall be liable on their bonds to make due payment of the said money so deposited on demand thereof.

Sec. 9. Be it further enacted, That it shall be the duty of the sheriff to appoint and hold said inquest in ten days after the receipt of said writ of ad quod damnum, except in cases of absence as aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed him for every additional jury which he may have under said writ; and for every default therein, the said sheriff shall be fined by the circuit court, at the instance of either party, not less than twenty nor more than one hundred dollars; and every juror summoned shall be fined not less than ten dollars for non-attendance; of all such fines as well as costs the circuit court of the county shall have jurisdiction. There shall be allowed the following fees, to wit: To the clerk of the circuit court, for every writ of ad quod damnum, seventy-five cents; for receiving and filing inquest, seventy-five cents; to the sheriff for giving notice, seventy-five cents, besides printers' fees not exceeding two dollars in each case; for holding inquest, five dollars; and for summoning witnesses, seventy-five cents each; to jurors, seventy-five cents per diem; which fees are not allowed until a verdict be returned and filed, and shall be taxed in the bill of costs and paid by said company; Provided, however, That before the application for said writ, the said company may tender to the owner or owners of any such land a sum of money by it deemed equivalent to the damages to be sustained, and upon refusal to accept the sum tendered, and a verdict for the same amount or a less sum, the costs shall be taxed and paid by the owners of said land upon said inquests as held.

Inquest shall be held, &c.

Sec. 10. Be it further enacted, That said company is

hereby authorised to construct, erect, build and use a single, double or triple railway or road of suitable width and dimensions, to be determined by the directors of said company, on the line or course by them designated; and also under the same rules, regulations and restrictions, and with like privileges and immunities as are herein granted to the main road, to build and construct branch railroadson either side of the main road, from such point as the stockholders may designate; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same; and shall have power to erect and maintain toll houses and other buildings for the accomodation of their concern, as they may deem suitable to their interests: Provided, That special books may be opened for subscription of stock in such branch railroads, and the stock subscribed in such books shall be esteemed applicable to and be expended only on the branch road especially designated: Provided further, That the shareholders making subscription in such special books shall not be considered stockholders sofar as to participate in the dividends of the company, until such branch road shall have been fully completed and brought into operation.

Powers in  
construct-  
ing road.

Proviso.

Proviso.

Sec. 11. Be it further enacted, That whenever in the construction of said railway it may be necessary to cross or intersect any established road or way, it shall be the duty of the said company so to construct their railroad as not to impede the passage of such established road or way; and if it be erected for said railroad over any navigable water course, the same shall be made so as not to obstruct the navigationof such water course.

Sec. 12. Be it further enacted, That the said company, for the purpose of making said railroad, or repairing or changing it afterwards, shall have the same right of entry on adjacent laids and to cut, quarry, dig, take and carry away any stone, wood, gravel or other material which may be necessary as is before provided as to the right of way: Provided, however, That in all cases the said company shall make compensation to the owners as is agreed on in manner hereinbefore provided for.

May repair and  
change road.

Proviso.

Sec.13. Be it further enacted, That the said company may agree and contract for land necessary for depots or other purposes, or condemn the same in like manner and by like proceedings as hereinbefore provided for the lands on the route of the road.

Depots.

Sec. 14. Be it further enacted, That the said company may cause any road or way to be changed or altered in

Power in chang-  
ing road.

such manner that said railroad may be made on the best site of ground for that purpose: Provided, Said company shall put such road or way in as good condition as at the time of altering or changing the same.

Sec. 15. Be it further enacted, That it shall be lawful for the company hereby incorporated from time to time to fix and regulate the toll and charges by them to be received from transportation of persons or property on their railroad or way aforesaid hereby authorised to be constructed, erected, built or used on or upon any part thereof.

May collect  
toll.

Sec. 16. Be it further enacted, That if any person or persons shall willfully do or cause to be done any act or acts whatsoever whereby any building, construction, or work of said company, or any engine, machine, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person so offending shall be guilty on indictment of misdemeanor, and shall also forfeit and pay to said company double the amount of damages sustained by reason of such offence or injury, to be recovered in the name of said company with cost of suit by action of debt.

Penalty for  
injuring road.

Sec. 17. Be it further enacted, That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company in the following manner, to-wit: ten per cent. on the whole amount subscribed, to be paid at such time as the directors may order, the balance to be divided into three equal annual instalments, to be secured by three several notes of hand of the respective stockholders made payable to said company; and in case any stockholder shall refuse to make payment of his or her note at maturity, the stock of such stockholder may be sold by the directors of said company at public auction, reasonable notice of such sale having been first given; and in case the proceeds of the sale be not sufficient to pay the note then due, suit may be commenced upon the note: Provided, That if all the stock of any stockholder be sold in pursuance of the above provision before all three of his or her notes shall have been paid, then the directors of said company may commence suit upon such note or notes as may be still due and unpaid.

Directors may  
require payment  
of stock

Proviso.

Sec. 18. Be it further enacted, That all lands, rights, machines, vehicles, carriages and works, and property of every description belonging to said company, and all profits which may accrue from the same, shall be vested in the respective shareholders of said company in proportion to their respective shares.

Lands shall  
vest.



Sec. 19. Be it further enacted, That the share of stockholders in the road hereby incorporated shall be liable only to the extent of the stock taken by them respectively, but not beyond the amount of said stock; and in the event any stockholder shall fail to pay his liability for and on account of stock for more than ninety days, the directors may, after thirty days' notice to such delinquent stockholder, or after notice published for four consecutive weeks in some newspaper near said road, declare his said stock forfeited, or may sell the same as hereinbefore provided for.

Liability  
of stock-  
holders.

Sec. 20. Be it further enacted, That the said railroad company may unite with any other railroad company either in this state or in the State of Georgia, upon such terms as a majority of the stockholders in number and amount of shares and stock in said Coosa and Chattooga River Railroad may determine.

Co. may  
unite with  
other co.

Sec. 21. And be it further enacted, That the said railroad company may open books of subscription for stock in said railroad, to be paid in labor, materials or provisions, which may be needed in the construction of said road, to be furnished at such times and places and prices as the directors and the person subscribing may agree upon, allowing no price beyond the maximum estimate of work on said road or of materials or provisions required: Provided, In all cases where the subscriptions for stock have been made to be paid in labor, materials or provisions, and the same shall not be delivered or performed as required by the terms of the contract as may be set out in said book of subscriptions, then all such subscriptions shall be considered and treated as cash subscriptions, at the option of the directors of said road.

Stock may  
be paid in  
labor.

Approved, January 6, 1852.

[No. 132.]

# AN ACT

To incorporate the Alabama and Georgia Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William Mallory, John Borders, William Johnston, Frederick A. Ross, William W. Pesnall, Newman Pounds, John Smith, of Benton county, Elijah B. Smith, Levi R. Lawler, William Sims, David V. Crider, James Treadaway, William Camp, Prior Reaves, James

Comm'rs to  
open books  
for subscri-  
ption of  
stock.



Cooper and Richard J. Breed be and they are hereby appointed commissioners, any five of whom may act and do all business necessary to be done under this act preparatory to the organization of the Alabama and Georgia Railroad Company; and they shall open books of subscription for the capital stock of said company at such times and places and with notice, not less than thirty days, as they may think proper.

Sec. 2. Be it further enacted, That the capital stock of said railroad company may be one and a half millions of dollars, in shares of fifty dollars each, with the privilege of increasing said stock to two millions of dollars, should said increase be found necessary for its construction and future management.

Capital  
stock.

Sec. 3. Be it further enacted, That the said railroad shall extend from the town of Oxford, in Benton county, to the state line in the direction of Newnan, Georgia, in Randolph county, or within two miles of Arbacoochy, and to the line of the State of Georgia, in the direction of Newnan, Georgia, in Randolph county, as may be selected by said company hereby incorporated; and that said company shall have the privilege of connecting with the Alabama and Tennessee River Railroad at the town of Oxford, in Benton county.

Route  
of road.

Sec. 4. Be it further enacted, That as soon as one hundred thousand dollars shall have been subscribed to the capital stock of said company, the subscribers of said stock their successors and assigns, shall be and they are hereby declared to be incorporated into a company by the name of "The Alabama and Georgia Railroad Company;" and by that name shall be capable in law of purchasing, holding or leasing, selling and conveying real and personal property so far as shall be necessary for the purposes of this incorporation; and by said incorporated name may sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity in this state or elsewhere, and to have and use a common seal, and the same to alter or amend at pleasure; to pass such by-laws, rules and ordinances for the good government of said corporation as to them may seem proper, and generally to do all things necessary to carry into effect fully and completely the objects of this act.

\$100,000  
subscri-  
bed, co.  
declared  
incorpor-  
ated.

Sec. 5. Be it further enacted, That as soon as fifty thousand dollars shall have been subscribed, the commissioners hereby appointed shall call a general meeting of the subscribers at such time and place as they may appoint; and at such meeting

\$50,000  
subscri-  
bed, co.  
may orga-  
nise.

the said subscribers, or a majority of them in value, shall elect nine directors by ballot to manage the affairs of said company; and the commissioners aforesaid, or any three or more of them, shall be judges of said first election of directors; and the directors thus chosen shall elect among themselves a president of said company and allow him such compensation as they may think proper; and on all occasions whenever a vote of stockholders shall be necessary to be taken, each stockholder shall be allowed one vote for every share owned by him or her, and any stockholder may depute any other person to vote and act for him or her as his or her proxy.

Sec. 6. Be it further enacted, That the president and directors of said company shall be chosen annyally by the stockholders of said company; and if any vacancy shall occur by death, resignation or otherwise, of any president or directors before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them; and that the president and directors shall hold their offices until their successors are chosen and qualified; shall have power to call meetings of stockholders at any time; and a majority of the stockholders shall have power to remove the president or any director and to fill any and all vacancies occasioned by removal at pleasure.

Elec-  
tions an-  
nual.

Sec. 7. Be it further enacted, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure; and a majority of them shall determine the compensation of all officers, engineers and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company for carrying into effect the objects of this act: Provided only, That such by-laws shall not be contrary to the laws of this state of the United States; and the said president and directors, or a majority of them, are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of the same with interest.

Powers of  
board.

Sec. 8. Be it further enacted, That the said president and directors shall have power to require the stockholders of said company to pay such instalments on their respective shares of stock in said company and at such times as they

May re-  
quire  
payment  
of stock.

may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the instalments required on his, her or their stock, in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale the share or shares of such stock owned by such stockholder, or such part as may be proper, to the highest bidder for cash; and if upon sale of the shares of said stock owned by said defaulting stockholder said stock should be sold for less than the amount due upon instalments as above mentioned, said stockholder shall be liable to pay to the said company the deficiency in manner and form hereafter specified.

Sec. 9. Be it further enacted, That the president and directors of said company are hereby authorised to contract for and receive conveyances of lands, stone, timber and wood which may be necessary or required in the construction of said railroad; and when the owner and company cannot agree upon the price, or when the owner is an infant, non-resident, or non compos mentis, then it shall be lawful for the president and directors of said company to apply to the sheriff of the county in which said lands or other property may be situated, who shall summon a jury of seven disinterested freeholders, a majority of whom shall be authorised to assess the damages and return their award or judgment to the next term of the circuit court for the county in which said land or other property may be situated, which shall be entered by the clerk as the judgment of the court; and execution may issue thereupon for the amount of said judgment and costs: Provided, always, That if either party shall upon the return thereof be dissatisfied they may, upon filing bond with good and sufficient security in such sum as the court may order, be allowed an appeal to the next term of the circuit court where said case shall stand for trial de novo: Provided also, Thirty days' notice shall be given to the opposite party, issued by the sheriff of the county.

May acquire  
right of way.

Sec. 10. Be it further enacted, That the jurors trying said case shall take the following oath, which oath the sheriff is authorised to administer: "You and each of you do swear (or affirm as the case may be) that you will well and truly try the case now pending and submitted to your decision between A. B., complainants, and the president and directors of the Alabama and Georgia Railroad Company, defendants, and that you will take into consideration the advantages and value which the construction of

Oath of  
jury.

the railroad company may give to land or other property, as well as the injury said land or other property may sustain by its construction through or near which it may be constructed: So help you God."

Sec. 11. Be it further enacted, That the said lands or other property when so condemned and estimated as aforesaid shall enure to and become the property of said company so far as is provided in the \_\_\_\_\_ section of this bill, upon the payment by said company of the amount assessed by said jury to the party claiming damages on account of the construction of said road through said lands, or for such other property: Provided, That said work shall in no wise be delayed on account of the proceedings had as aforesaid.

Property vests.

Sec. 12. Be it further enacted, That in case any person shall willfully and maliciously injure or obstruct in any degree the said road, he shall forfeit and pay to the president and directors of said company three times the amount of all damages they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided by law for individuals in like cases; and on complaint made to any magistrate within whose jurisdiction such offence shall be committed, it shall be the duty of such magistrate to bind the person or persons so offending with sufficient security for his or their good behaviour for a period of not less than one year; and such offender shall also be subject to indictment, and shall be sentenced at the discretion of the court to be imprisoned not less than three nor more than six months.

Penalty for injuring road.

Sec. 13. Be it further enacted, That in the construction of said railroad the president and directors of said company shall not in any way or manner obstruct any public road now established or to be established, but shall provide convenient passages to travel over said road.

Restriction.

Sec. 14. Be it further enacted, That payments of the subscriptions to the stock of said railroad may be made in materials, labor, provisions and all and every thing necessary for the construction of said road, which the board of directors may deem expedient to accept.

Payment of stock.

Sec. 15. Be it further enacted, That after completion of said road, or any part thereof, the said president and directors may levy and collect toll from all persons, property, merchandise and other commodities transported thereon: Provided, The net profits of said road shall never exceed twenty-five per cent. per annum.

May collect toll.

Sec. 16. Be it further enacted, That all condemnation

of land by any judicial proceedings had under the authority of this act so as to divest the title of the owner for the benefit of said railroad shall vest in the company a right of way and use of lands not exceeding \_\_\_\_\_ feet in width along the track of the road, or on either side of the road, as the case may be, and shall give the company all the powers over said land necessary and proper for the fully use of the road and right of way over it so long as the road shall exist or the corporation continue, but no more; but shall not divert the fee nor the revision from the original owner, anything in this act contained to the contrary notwithstanding; and all the damages assessed in such cases shall be assessed accordingly.

Lands shall  
vest.

Sec. 17. Be it further enacted, That the said company shall commence the building of the road herein described within six years from and after the passage of this act and complete the same within twenty years from the same day, else all the powers herein granted shall become void.

Road shall  
be commenced.

Sec. 18. And be it further enacted, That nothing in this act contained shall be so construed as to authorise banking privileges to said company.

Restriction

Approved, February 10, 1852.

[No. 133.]

# AN ACT

To incorporate the Alabama and Noxubee (Mississippi) Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John King, N. A. Crawford, A. J. Hodges, Milton Giles, John Holder, John Cochran, of the counties of Pickens, and \_\_\_\_\_ with such other persons as shall associate with them for that purpose, are constituted a body politic and corporate by the name of "The Alabama and Noxubee (Mississippi) Railroad Company;" and by that name to sue and be sued, plead and be impleaded in any court of this state, to make and have a common seal, and the same to break, alter or renew at pleasure; and the company is hereby vested with all powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act hereinafter set forth; and said company is hereby authorised and empowered to locate, construct and finally complete a single, double or triple railroad or way from some suitable point in or near the town of Tuscaloosa, so as to intersect the

Corporators.

Name and style.

General and  
corporate powers.



Mobile and Ohio Railroad at or near Macon, Mississippi, and to transport, take and carry property and persons upon said railroad or way, by the power and force of steam or animals, or any other mechanical or other power, or any combination of them which said company may choose to apply; and for the purposes of constructing said railroad or way, the said company is hereby authorised to lay out their road not exceeding one hundred feet wide through the whole length; and for the purposes of depots, cuttings and embankments, and for the purposes of necessary turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for the construction and security of said road, with permission to purchase the stock, materials, and right of way, and to make any lawful contract with any railroad company in relation to the business of said company, and also to make joint stock with any other railroad corporation: Provided, That all damages that may be occasioned to any person or corporation by the taking of any such land or materials aforesaid for the purposes aforesaid shall be paid for by said corporation in manner hereinafter provided.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed one million of dollars, to be divided into shares of one hundred dollars each; which shares shall be deemed personal property, and be transferred in such manner and at such places as the by-laws of said company may direct: Provided, That said company may, as soon as shares to the amount of fifty thousand dollars shall have been subscribed, then survey and locate the road, but shall not commence the construction thereof until shares to the amount of one hundred and sixty thousand dollars shall have been bona-fide subscribed, or an amount sufficient in the estimation of the directors to complete the road from Tuscaloosa.

Capital  
stock.

Sec. 3. Be it further enacted, That the persons named in the first section of this act, or a majority of them, shall open books to receive subscriptions to the capital stock of said company at such times and places as they, or a majority of them, may appoint, and shall give such notice of the times and places of opening said books as they may deem reasonable: Provided, The directors may authorise any person to receive subscriptions at any time or place.

Opening of  
b'ks of sub-  
scription.

Sec. 4. Be it further enacted, That the immediate government and direction of the affairs of said company shall be vested in a board of directors, seven in number, who shall be chosen by the stockholders of said company in manner hereinafter provided, and shall hold office until

Organization.



others are duly elected and qualified to take their places as directors; and the said directors, four of whom, the president being one, shall be a quorum for the transaction of business, shall elect one of their number to be president of said company; they shall also choose a secretary and such other officers as they may deem necessary.

Sec. 5. Be it further enacted, That the persons authorised by the third section of this act to open books for subscriptions to the capital stock of said company are hereby authorised, after the books of subscription are closed, or when the sum subscribed shall reach fifty thousand dollars, to call a meeting of the stockholders of said company in such manner and at such time and place as they may appoint for the choice of directors of said company; and in all meetings of the stockholders of said company, each share shall entitle the holder thereof to one vote, which vote may be given by the stockholder in person or by lawful proxy; and the annual meeting of stockholders of said company for the choice of directors shall be holden at such times and places and upon such notice as the said company in their by-laws may publish.

Election of  
officers.

Sec. 6. Be it further enacted, That in case it shall so happen that any election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not for that cause be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company; and said directors shall have powers to fill any vacancy which may occur by death, resignation or otherwise.

Election.

Sec. 7. Be it further enacted, That the directors shall have full power to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate and effects of said company, not contrary to this charter or the laws of this state and of the laws of the United States, the transfer of shares, the duties and conduct of their officers and servants, touching the meeting and election of directors and all matters whatsoever which may appertain to the concerns of said company; said company is also hereby authorised to purchase, receive and hold such estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted, and may be their agents, surveyors, engineers and servants may enter upon all lands and tenements through which they may deem it necessary to make said road, and to survey and lay out and construct the same, and to agree and contract

Powers of  
Board de-  
fined.

for the land or right of way with the owners through which they may intend to make said road; in case said lands belong to the estate of any deceased person, then with the executor of administrator of such; or in case of the same belonging to a minor, or a person non compos mentis, then with his or her guardian or guardians; or in case said lands be held by trustees of school funds or other trustees of estates, then with such trustees, mortgagees or cestui que trusts; and the said executors, administrators, guardians, trustees, mortgagees and cestui que trusts are hereby declared competent to contract with said company for the right to use, occupy and possess the lands held by them respectively, so far as may be useful or necessary to the purpose of said railroad; and the act and deed of such executors, administrators, guardians, trustees, mortgagees and cestui que trusts shall pass the title in said lands in the same manner as if the said deed or act was made or done by a legal owner of full age; and such executor, administrator, guardian, trustee, mortgagee or cestui que trust shall account to those interested for the amount paid him in pursuance of such agreement and compensation; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire in cases of disagreement, shall vest title according to its tenure.

May acquire  
right of way.

Sec.8. Be it further enacted, That if the said company cannot agree with the owner of the land through which they desire the road to pass, or with the executor, administrator, guardian, trustee, mortgagee or cestui que trust aforesaid, it shall and may be lawful for the clerk of the circuit court of the county in which said lands may lie, on the application of said company, or its agents, and he is required to issue a writ of ad quod damnum, commanding the sheriff that without delay he cause a jury of seven good and lawful men, none of whom shall be land owners or stockholders in said company, to be upon such land on a day to be by said sheriff fixed and appointed, and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian, trustee, mortgagee or cestui que trust, at least five days before such day, if they be within his county; and if not, or if the owner or owners be unknown, then notice shall be given by advertisement, to be by said sheriff posted and fixed at the dwelling-house, if any such there be, or on a public and conspicuous part of said land, at least five days before such appointed day, and also by advertising the same in some newspaper pub-

lished nearest the land at least two weeks by weekly insertions prior to said day, and then cause said jury, after being duly sworn by said sheriff or justice of the peace, to make true inquest of the damage suffered by such owner or estate by reason of making said road through such land. If any such juror shall fail to appear, or by reason of challenge for cause or otherwise, fail to sit on said inquest, the said sheriff shall fill said jury from the bystanders; and if they fail to render a verdict, the sheriff shall again, or on some subsequent day, empanel a new jury or jurors until a verdict be had, such verdict and inquest regularly certified by the sheriff shall be returned to the office of the clerk of the circuit court of the county in which said lands may lie and there remain among the records; and the said inquest shall vest in said company the right to occupy and use such land for the purposes of said railroad on the payment or tender of payment of the damages therein assessed against said company; and in cases of persons absent or unknown as aforesaid, the placing of the amount of said damages in the hands of the judge of the probate court of the county where such land may lie shall be deemed and taken as payment, and such judges shall be liable on their bonds to make due payment of said money so deposited on demand thereof.

Sec. 9. Be it further enacted, That it shall be the duty of the sheriff to appoint and hold said inquest within ten days after the receipt of said writ of ad quod damnum, except in cases of absence aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed him for every additional jury which he may have under such writ; and for every default therein the said sheriff shall be fined by the circuit court, at the instance of either party, not less than twenty nor more than one hundred dollars; and every juror summoned shall be fined not less than ten dollars for non-attendance; of all such fines as well as costs the circuit court of the county shall have jurisdiction. There shall be allowed the following fees, to-wit: To the clerk of the circuit court, for every writ of ad quod damnum, seventy-five cents; for receiving and filing inquest, seventy-five cents; to the sheriff, for giving notice, seventy-five cents; besides printers' fees, not exceeding two dollars in each case; for holding inquest, five dollars; and for summoning witnesses, seventy-five cents each; to jurors, seventy-five cents per diem; which fees are not allowed until a verdict be returned and filed, and shall be taxed in the bill of costs and paid by said company: Provided, however,

Duty of sheriff.

That before the application for said writ the said company may tender to the said owner or owners of any such land a sum of money by it deemed equivalent to the damages to be sustained, and upon refusal to accept the sum tendered, and a verdict for the same amount or a less sum, the cost shall be taxed and paid by the owners of said land upon which inquest is held.

Sec. 10. Be it further enacted, That whenever in the construction of said railroad it may be necessary to cross or intersect any established road or way, it shall be the duty of said company so to construct their railroad as not to impede the passage of such established road or way; and if it be erected for said railroad over any navigable water course, the same shall be made so as not to obstruct the navigation of such water course.

Crossing roads.

Sec. 11. Be it further enacted, That the said company for the purpose of making said railroad, or repairing or changing it afterwards, shall have the same right of entry on adjacent lands and to cut, quarry, dig, take and carry away any stone, wood, gravel or other material which may be necessary, as is before provided as to the right of way: Provided, however, That in all cases the said company shall make compensation to the owners as is agreed on in the manner hereinbefore provided for.

Powers conferred.

Sec. 12. Be it further enacted, That the said company may agree and contract for land necessary for depots or other purposes, or condemn the same in like manner and by like proceedings as hereinbefore provided for the lands on the route of the road.

Depots

Sec. 13. Be it further enacted, That the said company may cause any road or way to be changed or altered in such manner that said railroad may be made on the best site of ground for that purpose: Provided, That said company shall put such road or way in as good condition as at the time of altering or changing the same.

May alter road.

Sec. 14. Be it further enacted, That it shall be lawful for the company hereby incorporated from time to time to fix and regulate the toll and charges by them to be received from transportation of persons or property on their railroad or way aforesaid hereby authorised to be constructed, erected, built or used, or upon any part thereof.

May charge toll.

Sec. 15. Be it further enacted, That if any person or persons shall willfully do or cause to be done any act or acts whatsoever whereby any building, construction or works of said company, or any engine, machine or any matter or thing appertaining to the same shall be stopped,

Penalty for injury to road.

obstructed, impaired, weakened, injured or destroyed, the person so offending shall be guilty on indictment of misdemeanor, and shall also forfeit and pay to said company double the amount of damages sustained by reason of such offence or injury, to be recovered in the name of said company, with costs of suit by action of debt.

Sec. 16. Be it further enacted, That the directors of said company shall require the payment of the sum or sums subscribed to the capital stock of said company in the following manner: ten per cent. on the whole amount subscribed, to be paid at such times as the directors may order, the balance to be divided into three equal annual instalments, to be secured by three several notes of hand of the respective stockholders made payable to said company; and in case any stockholder shall refuse to make payment of his or her note at maturity, the stock of such stockholder may be sold by the directors of said company at public auction, reasonable notice of such sale having been first given; and in case the proceeds of the sale be not sufficient to pay the note thus due, suit may be commenced on the note: Provided, That if all the stock holden be not sold in pursuance of the above provision before all three of his or her notes shall have been paid, then the directors of said company may commence suit upon such note or notes as may be still due and unpaid.

Payment of stock.

Sec. 17. Be it further enacted, That all lands, rights, machines, vehicles, carriages and works, and property of every description belonging to said company, and all profits which may accrue from the same, shall be vested in the respective shareholders of said company in proportion to their respective shares.

Property vested.

Sec. 18. And be it further enacted, That the share of stockholders in the road hereby incorporated, shall be liable only to the extent of the stock taken by them respectively, but not beyond the amount of said stock; and in the event of any stockholder shall fail to pay his liability for and on account of stock for more than ninety days, the directors, may, after five days' notice to such delinquent stockholder, or after notice published for two consecutive weeks in some newspaper near said road, declare his said stock forfeited, or may sell the same as hereinbefore provided for.

Liability of stockholders.

Approved, February 10, 1852.

[ No. 134. ]

## AN ACT

To incorporate the Gainesville and Mississippi Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William M. Lewis, Robert Craig, Jonathan Bliss, Greene B. Moody, William O. Winston, Daniel Rencher, and Francis S. W. Nelson, and their associates and successors, be and they are hereby constituted a body corporate for the purposes of constructing either a plank-road or a railroad, as the stockholders may elect, or if they shall choose, first the one and afterwards the other, if found preferable, from the town of Gainesville, in the county of Sumter, to such point on or near the Mississippi state line as the stockholders or the officers or agents of said company hereinafter named may decide upon or adopt.

Corporators.

Objects.

Sec. 2. Be it further enacted, That the aforesaid persons or a majority of them may appoint and give notice of a time and place, or of times and places for subscriptions, and shall at the time and place appointed open books and receive subscriptions to the capital stock of said company, in shares of one hundred dollars each, if for a plankroad to an amount not exceeding fifty thousands dollars, or if for a railroad not exceeding two hundred thousand dollars, payable on such terms and in such instalments as the company when organised shall direct; and that as soon as stock to the amount of twenty-five thousand dollars, if for a plankroad, or one hundred thousand dollars, if for a railroad, shall have been subscribed, it shall be the duty of the said corporators, or a major part of them, to notify and cause a meeting of the subscribers for stock at some convenient time and place; and at such meeting, or at an adjourned meeting, if the same is not got through with at the first, receive the votes of such subscribers, each share in such first election being entitled to one vote, and the same may be cast by proxy, if authorised by the subscriber, for a president, eight directors, a secretary or clerk, and treasurer, to hold office for one year and until their successors be elected and qualified; and upon such election said company shall be fully organised, and shall have full corporate capacity, power and existence, and by and under the name of "The Gainesville and Mississippi Road Company" may sue and be sued, and may have and employ agents and do all and whatever may be necessary and convenient for accomplishing the work or works proposed; and a seal may

Receiving subscriptions, and organization of company.



have, or act without seal; and the said stockholders may adopt such by-laws, rules and regulations for the management and conduct of the business of the company and for the guidance of the president and directors, not inconsistent with the laws of the state, as they shall from time to time deem mete, or in the absence of such, the president and directors may adopt such rules and regulations; and the treasurer before entering upon the duties of his office shall give bond to said company in such sum as the stockholders or the president and directors shall require, and with such security and conditions.

Sec. 3. Be it further enacted, That it shall be the duty of the president and directors to make and direct calls for the payment of the stock subscribed in such sums and instalments as they shall deem best, unless the stockholders shall have determined and ordered the same; and to take all necessary measures for the collection of the same, and to take in the name and behalf of the company all such measures and action as shall be necessary for the accomplishment of the work proposed, and to acquire for said company and in its name real and personal estate; and the said company is made capable in law of acquiring, buying, selling, holding and conveying real and personal estate, so far as may be necessary and useful to carry into effect the purpose and design of said corporation.

Payments of  
stock.

Sec. 4. Be it further enacted, That the said company and the president and directors of the same shall be invested with the same powers, rights, immunities, and be subject to the same liabilities, and may have the same remedies and protection provided for in reference to the Tuscaloosa plankroad company, in sections ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of the act to incorporate the Tuscaloosa plankroad company, approved December 14, 1849, in the same way and to the same extent as if the same had been passed in reference to this company and were incorporated in terms as part of this act; and in case a railroad shall be determined upon, shall have the same powers, rights and immunities and remedies and protection and be subject to the same liabilities provided for in reference to the Tallapoosa and Coosa railroad company in the eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth sections of the act to incorporate the Tallapoosa and Coosa railroad company, approved February 6, 1850.

Powers and lia-  
bilities.

Sec. 5. Be it further enacted, That the company hereby incorporated shall not have or presume to exercise any banking powers.

Restriction.

Sec. 6. Be it further enacted, That the company hereby incorporated may join, and upon vote of the stockholders, become consolidated in or with any other similar company, or company with similar powers, designed to connect with the road herein proposed, wither in the direction of Jackson, Mississippi, or of Selma or Tuscaloosa, in the State of Alabama; and may have a consolidated stock, either under the name of this company or under the name of such other company, or under the joint name of the two; and such consolidated company shall be vested with the powers hereby conferred from the time of such consolidation.

May unite with  
other road.

Approved, February 10, 1852.

[No. 135.]

# AN ACT

To aid the Alabama and Mississippi River Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That one hundred thousand dollars of the two per cent. fund be and the same is by this act authorised to be loaned to the Alabama and Mississippi River Railroad Company on the terms, stipulations and conditions hereinafter stated.

\$100,000 loan'd.

Sec. 2. Be it further enacted, That before receiving the loan provided for in the first section of this act, said company shall grade as much as thirty miles of its road consecutively from the Alabama river, in the proper direction towards Jackson, in the State of Mississippi, and shall construct all necessary bridges and culverts and prepare the road bed in a proper manner for the distance stated to receive the superstructure; and shall execute a bond in such amount as the governor may prescribe, not less than one hundred thousand dollars, with ample personal security to be approved by the governor, conditioned that the amount which may be received by virtue of this act shall be faithfully used in the purchase of iron for the use of said railroad; and the said company shall execute its bond payable to the governor of the State of Alabama for the time being, and his successors in office, conditioned that the funds which may be received by virtue of this act shall be refunded to the state at the expiration of ten years from the time of the receipt thereof; but the amount or any portion may be refunded at any time before the expiration of ten

Conditions upon  
which it is to  
be loaned.

years; and with the further provision, that should said company retain the amount to be received, or any portion thereof, more than five years, said company shall pay interest on the sum retained at the rate of five per centum per annum, commencing at the expiration of five years from the receipt of the money and payable annually; which bond shall be for a sum sufficient to cover the amount to be received and the interest thereon.

Sec. 3. Be it further enacted, That to secure and provide for the faithful performance of the conditions of the last mentioned bond, said company shall execute in due and legal form a deed of trust to the governor of the state for the time being, and his successors in office, and shall thereby convey, assign and set over to the governor and his successors in office, all the property, means, effects and choses in action of said company, including the railroad, with all appurtenances and machinery, and including the iron to be purchased with said funds; and stipulating and providing that should said company in any respect fail to perform its obligations as stipulated in its bond, on any such failure, the governor of the state for the time being shall have full power and authority, and it shall be his duty (acting by such means and agencies as to him may seem best) to seize and take possession of the road of said company, with all its appurtenances, together with all other property, means and effects of the company, and to sell the whole, or such part thereof as he may think proper to the highest bidder for cash: Provided, That before any such sale at least thirty days' notice thereof shall be given by advertisement in one or more newspapers, as the governor may direct; and at any such sale or sales, the governor may cause whatsoever may be sold, or any portion thereof to be purchased for the use of the state. And said deed of trust shall further stipulate and provide, that in the event that the proceeds of the property so sold should be insufficient to discharge the obligations of the company in said bond, then and in such case, the governor shall have the right, power and authority to compel and require the stockholders, or other debtors of said company, to pay for the use of the state the whole of their indebtedness to the company, or such portion or per centum thereof as the governor may prescribe; and to enable the governor to do so he shall have the right to resort to and use all the remedies which the said company possess or may possess against the stockholders by means of its act of incorporation, and for this purpose may use the name of said company.

Co. shall make  
deed of trust of  
road to gov.

Sec. 4. And be it further enacted, That when the said company shall have performed all the grading and other work required by the provisions of this act, and satisfactory evidence thereof shall be produced to the governor, and when the other requirements of this act shall have been performed by the giving of the bonds and execution of the deed of trust aforesaid, it shall be the duty of the governor to certify to the treasurer of the state, bank commissioner, or other custodian of the funds specified in this act; and thereupon it shall be the duty of the treasurer, bank commissioner or other officer, respectively, to pay over to the president and directors of said company, or their authorised agent, so much of the two per cent. fund as may be available, not exceeding one hundred thousand dollars.

Performance of  
condition, mo-  
ney to be paid.

Approved, February 9, 1852.

[No. 136.]

# AN ACT

To authorise the Canton, Aberdeen and Tuscumbia Railroad Company to extend their railroad into the State of Alabama, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the contemplated Canton, Aberdeen and Tuscumbia Railroad Company of the State of Mississippi, and her associates, be and they are hereby authorised and empowered to extend, locate, construct and put in operation a single, double or triple railroad or way in the State of Alabama, from the Mississippi State line to the town of Tuscumbia, having in view a continuous railroad from Nashville, in the State of Tennessee, to the city of New Orleans; that said company may connect the said railroad with any railroad or roads which have been or may be established by the laws of this state, or cross the same without let or hindrance at such point or points as may be found fit and proper.

Road may be  
located and ex-  
tended into Ala.

Sec. 2. Be it further enacted, That to enable said company to accomplish the objects of this act, they may have, use and enjoy the privileges of this act from the Mississippi State line to such point or intersection, and one hundred feet wide on either side from the centre of the tract of such railroad; said company may establish suitable depots along the same, not exceeding five acres of land at any depot, with all proper turn-outs and water stations; they may employ suitable surveyors, engineers, locomotives, engines, passenger or burthen cars and other vehicles, take, carry

Extent of priv-  
ileges.

and transport person and property upon said railroad by the forces of steam, chemical or other power, or any combination of them as they may choose; and may from time to time fix and establish rates of toll for the same.

Sec. 3. Be it further enacted, That it shall be lawful for said company to receive by way of contract, surrender or donation, any land, rock, timber, earth, sand, gravel, water or other material which may be found on the route and necessary for the use of said railroad; but in case of disagreement in reference thereto, or it otherwise becomes necessary, then and in that case the value of such land or material shall be ascertained or condemned as is provided for in the case of the Mobile and Ohio Railroad Company.

May receive property donations, &c.

May acquire right of way.

Sec. 4. Be it further enacted, That during and pendency of any proceedings on enquiry of damages for the right of way or the use of material for the said railroad, the said company shall not thereby be stopped or hindered in the making of said railroad, or in the right to use such materials, but may proceed on depositing in the county treasury of the proper county a sum which the judge of the court of probate may judge sufficient to secure the damages which may be assessed to such claimant.

Work shall not be hindered.

Sec. 5. Be it further enacted, That it shall be the duty of all persons who may claim damages from said company on account of the right of way, or for the use of material to be used on said railroad, to make their claim of damages within two years after the location of said railroad, and in default thereof such claim shall be forever barred: Provided, That a further time of one year shall be allowed to infants, feme coverts and persons non compos mentis after such disability shall be removed.

Certain claims against comp'y shall be presented in two years.

Sec. 6. Be it further enacted, That it shall not be lawful for said company to carry on any banking operations, but may effect insurance on lives and on property transported on said railroad.

Restriction.

Sec. 7. Be it further enacted, That every obstruction to the safe and free passage of the locomotives, engines, cars or other vehicles of the company on said railroad shall be deemed and held a public nuisance, and may be abated as such by any officer, agent or servant of the company; the person or persons causing the same may be indicted therefor, and on conviction thereof may be fined or imprisoned, or both, at the discretion of the court trying such indictment.

Obstructions a nuisance, and may be removed.

Sec. 8. Be it further enacted, That if any person or persons shall willfully destroy, damage or obstruct said railroad,

Penalty for injuring road.

or any bridge, locomotive, engine, car or other vehicles of said company, or shall intentionally injure, weaken, damage or destroy any part of said railroad, or obstruct the free and safe passage thereof with intent to hurt, injure, damage or endanger the life or lives of any officer, servant or agent of the company, or any passenger or passengers on said railroad, the person or persons so offending may be indicted therefor, not exceeding one thousand dollars, and be imprisoned in the penitentiary of this state not less than one year nor more than ten years.

Sec. 9. Be it further enacted, That the officers, servants and agents of said company shall be exempt from military duty, except in case of invasion or insurrection, and from serving on juries, and from working on public roads.

Exemption of officers.

Sec. 10. Be it further enacted, That the railroad authorised by this act shall be commenced within two years and finished within sixteen years thereafter; and in default thereof the privileges hereby granted shall cease, determine and be of no effect.

Commencement and completion of road.

Sec. 11. And be it further enacted, That this act and the privileges hereby granted shall take effect and be in force so soon as the legislature of the State of Mississippi shall incorporate the said Canton, Aberdeen and Tuscumbia railroad company.

Shall take effect.

Approved, February 4, 1852.

[No. 137.]

# AN ACT

Granting the right of way to the Winchester and Alabama Railroad Company through the counties of Madison and Marshall.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a certain company incorporated by the legislature of the State of Tennessee to construct a railroad communication between the State of Tennessee and the State of Alabama, under the name and style of "The Winchester and Alabama Railroad Company," be and they are hereby authorised to construct their road to the town of Huntsville, in the county of Madison, to the Tennessee river, in the county of Marshall, passing within three-fourthes of a mile of the town of New Market, thence down the valley of Flint river, together with the right to use any stone, timber or other material needful and necessary to the construction of said road: Provided, That said company shall acquire the

Right of way granted.



right of way and pay the owners of the soil over which said road is to run as prescribed in the act to incorporate "The Tuscaloosa Plankroad Company," approved December 14, 1849.

Sec. 2. Be it further enacted, That said company shall be authorised and required to open books for the subscription of stock in the capital of said corporation in the State of Alabama, so as to afford the citizens thereof an opportunity to take stock to the amount of one hundred thousand dollars on the line of said road to Huntsville, and one hundred and fifty thousand dollars on the line of said road to the Tennessee river: Provided, That if said sums be not subscribed in Alabama within sixty days after the books are opened, then it may be taken elsewhere.

Books for subscription.

Sec. 3. Be it further enacted, That the stockholders in this state shall be represented in the board of directors of said company by not less than five directors.

Right of stockholders.

Sec. 4. Be it further enacted, That the moneys subscribed by the citizens of Alabama, whether by the state, counties, corporations or individuals, shall be applied to the construction of the road within the limits of the state.

Application of money subscr'd in this state.

Sec. 5. And be it further enacted, That said company shall have the privilege of running said road across the track of the Memphis and Charleston railroad, and that any railroad company now or hereafter to be chartered in this state shall have the right to unite their road with the road authorised by this act.

May cross other roads and unite.

Approved, February 10, 1852.

[No. 138.]

#### AN ACT

To alter and amend the second section of an act approved February 3d, 1846.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the section of "an act to reduce the number of directors in the Montgomery and West Point Railroad Company," approved 3d February, A.D. 1846, be and the same is hereby amended so as not to exempt from the performance of road duty any person or slave belonging to or in the employment of said company, other than such as shall be at the time, and shall have been for the space of ten days prior to the time of performing road duty exclusively in the employment of said company as agent, contractor,

Amended as to road working.

engineer, overseer or superintendent, with such hands as are engaged in the workshops or at the tanks or traveling on the road in connection with some one of the trains, together with hands whose regular business it is and who shall at the time be engaged in repairing said road, but not to exempt any person or slave who may be engaged in getting, cutting, sawing or preparing timber for the road or fuel for the engines.

Approved, February 9, 1852.

[ No. 139. ]

# AN ACT

To amend the charter of the Girard Railroad Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama and General Assembly convened, That at the next election by the stockholders in the Girard Railroad Company for directors, they are hereby authorised and required to elect seven directors, and the board shall thereafter be composed of seven in lieu of five directors.

7 directors to be elected.

Sec. 2. Be it further enacted, That the capital stock of said company shall be increased from two to four millions of dollars.

Capital stock increased.

Sec. 3. Be it further enacted, That the said Girard Railroad Company be and they are hereby authorised to construct a branch road from any point on the main trunk to the town of Eufaula, in the county of Barbour; and the said company is hereby further empowered to construct a branch road from any point on the main road to the city of Montgomery, or to form a junction with the Montgomery and West Point Railroad at or near the city of Montgomery.

May construct a branch.

Sec. 4. Be it further enacted, That the said Girard Railroad Company shall be authorised to construct a bridge or any other description of work across the waters of Mobile bay, from the point where their road touches the water to the city of Mobile or its vicinity, and to construct a railroad from thence to a convenient point for a depot in or near the city of Mobile, with full power to establish a depot at such point as the company may select.

May construct bridges.

Sec. 5. And be it further enacted, That all the powers and privileges granted to said company by their charter to construct the main road are hereby given them to construct the branch roads enumerated in the third section of this act.

Powers extended.

Approved, February 7, 1852.

[No. 140.]

## AN ACT

To amend an act entitled "an act to incorporate the Alabama and Mississippi Rivers Railroad Company

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the above recited act shall be and the same is hereby amended as follows, that is to say: By inserting immediately after the words "town of Cahaba," where they occur in the 1st section of said act, the words "or town of Selma," and by inserting immediately after the words "from Cahaba," where they occur in the 2d section of said act, the words "or from the town of Selma,"

Act amended,  
1st section.

Sec. 2. Be it further enacted, That said act be and is hereby further amended by inserting in the 18th section thereof, immediately before the word "subscribed," where it first occurs in said section, the word "unconditionally."

Further amended,  
18th sec.

Sec. 3. Be it further enacted, That said act be ~~and~~ is hereby further amended by inserting immediately after the 18th section thereof a section in the following words, to-wit: "Sec. 18 $\frac{1}{2}$ . Be it further enacted, That the directors of said company shall at their discretion have power to receive or authorise the reception of subscriptions to the capital stock of said company, payable at such time or times, and in such manner, and upon such conditions, and with such stipulations as to the board of directors may seem proper and expedient, or as may be prescribed by them; and in case any stockholder shall fail or refuse to make payment of his, her or their stock so subscribed, according to the conditions and requirements thereof, the stock of such stockholder or stockholders may be sold as provided in the 18th section of this act; and in case the proceeds of the sale should not be sufficient to pay the amount which may be due thereon, the balance due may be collected by suit at law in any court having jurisdiction, or the company may at its option, sue at once for the whole or any portion of said stock so subscribed for and not paid according to the terms, stipulations or conditions of such subscriptions: Provided, That those who may become subscribers under the provisions of this section shall not be entitled to vote in the affairs of the company until the payments on his, her or their subscription shall equal in proportion the payments of the stockholders who shall have subscribed unconditionally."

Further amended by sec. 18 $\frac{1}{2}$ .

Powers of directors in receiving subscriptions of stock.

Sec. 4. Be it further enacted, That the said act be and is hereby further amended by adding immediately after the words "none of whom shall be land owners," in the 8th

8th sec. amended.

section of said act, these words, to-wit: "within one mile of the line of said railroad;" and further, by adding to the 8th section of said act the following words, to-wit: "The jury who may be empannelled under the writ of ad quod damnum provided for in this section to assess the value of lands which may be required by said company for right of way, or for depots, Warehouses or other purposes of said company, shall be required to take the following oath, to be administered by the sheriff, his deputy or any justice of the peace, to-wit: "You and each of you do solemnly swear (or affirm, as the case may be) that you will well and truly try the matter now pending and submitted to your decision between the complainant (naming him) and the Alabama and Mississippi railroad company, defendants, and that you will take into consideration the advantages and value which the construction of the railroad of said company may give to the lands or other property of the complainant through or near which said road may be constructed, as well as the injury which said complainant may sustain by the construction of said railroad, and render your verdict accordingly."

Sec. 5. Be it further enacted, That said act be and the same is hereby further amended by the adding of a section in the words following, to-wit: "Sec. 22. Be it further enacted, That the said company, acting by or through its board of directors, or a quorum thereof, shall have full power to borrow money on the faith and credit of said company to carry into effect the purposes of this act, and to issue the bond or bonds of the company therefor in such form and at such rate of interest as the board of directors may prescribe; and to secure the same, to give and execute a lien or liens, by mortgage or other wise, as the board of directors may prescribe, on all the property, means and effects of the company, or any portion thereof."

Co. may borrow money.

Sec. 6. And be it further enacted, That said act be and the same is hereby further amended by the addition of a section in the words following, to-wit: "Sec. 23. Be it further enacted, That the said company shall have power to construct and extend their railroad to the line of the State of Mississippi, in any direction they may think proper, under all the terms, privileges and immunities stipulated in the foregoing sections of this act."

Powers of Co. extended.

Approved, February 4, 1852.

/ No. 141. /

## AN ACT.

To amend the charter of the Eufaula and Mobile Railroad  
Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Eufaula and Mobile Railroad Comapny shall have power and are hereby authorised to locate, contract and finally complete a single double or triple railroad or way from some suitable point on the route of said railroad, or from some suitable point in or near the town of Eufaula in Barbour county, to run in a southern or south-westerly direction to the boundary line of the State of Florida, in the direction of St. Andrews' bay or the city of Pensacola, in said State of Florida, in such route as shall be deemed most expedient.

Power of Co.  
in construc-  
tion of road.

Sec. 2. Be it further enacted, That all the powers granted said railroad company by its act of incorporation, approved, 12th December, 1849, for the construction of their road to the waters of the Mobile bay, be and the same are hereby extended for the construction likewise of a road over the route described in the first section of this act.

Certain powers  
extended.

Sec. 3. Be it further enacted, That the said corporation and any other incorporated railroad company of this state or any adjoining state may unite their routes and roads at any point or upon any terms they may agree.

Co's. may unite.

Sec. 4. And be it further enacted, That said company shall commence the building of said road within seven years and complete the same within fifteen years from the passage of this act.

Road to be begun  
and completed.

Approved, February 9, 1852.

/ No. 142. /

## AN ACT

To amend an act to in corporate the Memphis and Charleston Railroad Company, Approved January 7, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the board of directors for the Memphis and Charleston Railroad Company, heretofore consisting of nine members, shall from and after the next annual election by the stockholders, or at such time after the passage of this act as the company may desire, be increased to the number of thirteen members, a majority of whom shall

No. of direc-  
tors increased.

constitute a board to transact business, whose acts shall in every respect be as valid and binding as those of the board heretofore composed of nine members.

Sec. 2. And be it further enacted, That whenever it shall appear for the interest of the company, the president and directors of said company shall have full power to put under contract and project the branch of said railroad from the main trunk at or near Tuscumbia, by way of South Florence, to the town of Florence, any provisions to the contrary notwithstanding.

Branch road  
may be con-  
structed.

Approved, February 6, 1852.

[No. 143.]

# AN ACT

To authorise and require the commissioners' court of roads and revenue of Lauderdale county to submit to the voters of said county a certain proposition therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so soon as practicable after the passage of this act, the commissioners' court of roads and revenue for the county of Lauderdale are hereby authorised and required to propound in writing to the qualified voters being all those who are entitled to vote in elections for members of the legislature of said county of Lauderdale the following proposition, namely: "Are you, or not, in favor of a subscription of stock by the county of Lauderdale in the railroad which is to run from Florence, in said county, to the Tennessee State line, and in the direction of Nashville, in Tennessee, and which is known as the Nashville and Florence Railroad, to the amount of one hundred and twenty-five thousand dollars?" which said proposition shall be published for six weeks consecutively prior to the taking of said vote in the Gazette newspaper published in Florence.

Comm'rs. court  
shall submit  
question to  
people.

Sec. 2. Be it further enacted, That said election shall not be postponed beyond the first Monday of August, 1852, but may be held at any time before that day. The polls shall be opened at every precinct in said county by the sheriff of said county, and shall in all things be conducted under the same rules and regulations as now obtained relative to the election of members of the legislature.

Election, when  
held.

Sec. 3. Be it further enacted, That the said commissioners' court shall have said proposition printed in suffi-

Proposition shall  
be printed.



cient numbers that each voter may, if he chooses, endorse his vote, yes or no, either on the bottom or on the back of said printed form, and when handed in, the same shall be counted as his vote; but if the voter shall fail to do this, then the sheriff or manager shall ask such voter as near as may be in the form of the proposition contained in the first section of this act, and he shall respond viva voce yes or no, as the case may be, and so accordingly shall his vote be recorded.

Sec. 4. Be it further enacted, That if a majority of the votes so taken at said election shall be in favor of said proposition, then and in that event the said commissioners' court are hereby directed and required, for and in the name of said county of Lauderdale, to subscribe for one hundred and twenty-five thousand dollars of the capital stock of said railroad company; and after subscribing for the same to execute and deliver to the president and directors of said railroad company upon their demand, (with the authentication hereafter specified,) as payment for said stock, the bonds of said county of Lauderdale, in sums of not less than five hundred dollars each, payable thirty years after date thereof, and bearing interest at the rate of six per cent. per annum, payable half yearly in the city of New York or some other eastern city: Provided, Nothing herein contained shall be so construed as to prevent the said commissioners' court in their discretion from making said bonds, either in whole or in part, payable at a shorter period than thirty years from this date.

Effect of the election.

Sec. 5. Be it further enacted, The insurance of said bonds shall not be made until the said commissioners' court shall be satisfied that a sufficient subscription has been made to the stock of said company, by responsible persons, with the addition of said one hundred and twenty-five thousand dollars, to insure the completion of so much of said road as shall run through the said county of Lauderdale, nor until the said company shall agree that the stock so subscribed for by said county shall be applied to the construction of that part of said road which shall run through said county.

Bond, when to issue.

Sec. 6. Be it further enacted, To pay the bonds to be issued under the provisions of this act, the said commissioners' court are hereby empowered and required to levy on the assessments made in each year for the state tax and ad valorem tax on all such property as is assessed according to its value of sixteen cents on each hundred dollars worth of all the real and personal estate in the county of Lauderdale now subject to taxation by the State of Ala.

Tax shall be levied.

bama, and on such property, estate or other taxable subjective as now pays according to the state law a special tax, as will bear a just proportion to the ad valorem tax of sixteen cents on such property as is assessed according to its value, and to pay the interest on said bonds as the same shall fall due, an ad valorem tax of twenty-five cents on each hundred dollars of the estate aforesaid, which shall be assessed under the state law according to its value, and a specific tax according to the provisions above on such property, estate or other taxable subjective as now pays according to the state law a specific tax to be collected annually, and to be semi-annually set apart to pay said interest: Provided, Nothing herein contained shall be construed as to authorise the said court to levy or collect a poll tax: Provided further, All property now exempt from execution, except real estate shall also be exempt from taxation under this law: And provided further, This law is to be construed as with the exceptions aforesaid, to be subject to taxation for the object herein provided for, every species of taxable property, real, personal and mixed, all privileges, franchises and professions, all investments in corporations, merchandise and manufactories, all licenses, all moneys at interest, and all other taxable subjectives now embraced or which hereafter may be included in the general law of state taxation, it being the object, intent and purpose of this law with the exceptions aforesaid to make the assessment of taxes under the state law the basis of taxation under this law.

Sec. 7. Be it further enacted, That the net proceeds of said tax first above provided for shall be annually paid as the same is realised to the probate judge of said county of Lauderdale until the same, together with the cost of collection, shall amount to one hundred and twenty-five thousand dollars; and the net proceeds of said tax last above provided for shall be semi-annually paid under the direction and supervision of said probate judge to the president and directors of said railroad company for the purpose of extinguishing the interest on said bonds, the said probate judge taking therefor the receipt of said company, which when filed in said commissioners' court of roads and revenue shall be his voucher for said payments.

How applied.

Sec. 8. Be it further enacted, That the dividends on said one hundred and twenty-five thousand dollars of stock paid for by said bonds shall be first applied to pay the interest on them as the same becomes due, the remainder of dividends, if any, and the remainder of the proceeds of said interest tax, if any, and the whole of said sum set

Application of dividends.

apart to discharge the principal of said bonds, shall in each year be applied to the withdrawal of said bonds; but if said bonds cannot be withdrawn before maturity, upon terms satisfactory to the said commissioners' court of roads and revenue, then said sums shall from time to time be invested in stocks or lent by said probate judge, as the said court shall direct; and the said investments and proceeds thereof shall be held subject and applied to the payment of said bonds, and shall not be used for any other purpose until said bonds are paid.

Sec. 9. Be it further enacted, That should there be any dividends on said one hundred and twenty-five thousand dollars of stock paid for by said bonds in any year applicable to the payment of the interest on said bonds, the said court shall have power to modify and lessen said interest tax accordingly; and should said dividends in any year be sufficient to pay the interest in said year, then to suspend for said year the collection of said interest tax.

When tax may  
be modified.

Sec. 10. Be it further enacted, That the said commissioners' court shall have power to sell at any time all or any portion of said stock paid for by said bonds, and then to modify or repeal accordingly all provisions for paying the same by other means: Provided, That this course shall not be adopted until it is first submitted to the qualified voters of said county and approved by a majority of the votes given.

Stock may be  
sold.

Sec. 11. Be it further enacted, That if any interest on the bonds issued under the provisions of this act shall fall due before money sufficient to pay the same shall have been received, the said court shall have power to borrow for and in the name of said county, at a rate of interest not exceeding six per cent. per annum, money sufficient to pay such instalment, and to execute the bonds of the county therefor, to be paid so soon as the interest tax shall be collected.

Court may borrow  
money to pay bond.

Sec. 12. Be it further enacted, That all stock paid for by the principal tax herein authorised shall be distributed pro rata amongst the persons, corporations or companies paying such taxes, who shall be considered shareholders in said railroad company to the extent of their payments, and as such entitled to demand and receive such dividends, in proportion to their stock as may be from time to time declared in favor of said county of Lauderdale by virtue of its said subscription of one hundred and twenty-five thousand dollars.

Stock how dis-  
tributed.

Sec. 13. Be it further enacted, That the collector of the taxes herein provided for shall execute to such tax payer, at the time of its payment, a receipt for the same, specifying that it is in payment of his railroad tax; which said receipt shall be assignable as cotton receipts now are; and when any person either in his own right, or by virtue of assignments made above, shall file with the probate judge of said county railroad receipts to the amount of twenty-five dollars, it shall thereupon become the duty of the said probate judge to issue in favor of the person so filing said receipts a certificate, which said certificate shall itself be assignable, in which the county of Lauderdale shall acknowledge to have received of the holder of said receipt payment to their amount of stock in said road, which thereby shall entitle the holder of said certificate to demand and receive such dividends in proportion to said payments as may be from time to time declared on the aggregate county subscription of one hundred and twenty-five thousand dollars; and for all such services as may be rendered by said probate judge in pursuance to the provisions of this act, the said commissioners' court shall make him suitable compensation.

Tax collector  
shall give  
bond.

Sec. 14. Be it further enacted, That the taxes provided for herein shall be collected by such officer or officers as may be appointed for that purpose by said court, and such officer or officers shall receive such compensation and perform such duties as may be prescribed by said court; and in the event of a failure to pay over all moneys collected under this act, said court shall have power to render judgment upon motion against said officer and his securities in favor of said county of Lauderdale, upon giving said officer ten days' notice of the motion.

Collection of  
taxes.

Sec. 15. And be it further enacted, That all bonds which may be required of collecting officers under this act shall be made payable to the county of Lauderdale; and all motions which may be made against said officers shall be made in the name of said county, the nature of said motion as provided for in the fourteenth section of this act being signed by the probate judge.

Bonds of col-  
lectors.

Approved, February 6, 1852.

[No. 144.]

## AN ACT

To authorise the commissioners of roads and revenue of the county of Madison to subscribe to the capital stock of the Memphis and Charleston, and the Winchester and Alabama Railroad Companies.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in conformity to the wishes of the legal voters of the county of Madison, as expressed at the last August election, the commissioners of roads and revenue for said county be and they are hereby authorised and empowered, for and in the behalf of said county, to subscribe for and take stock in the Memphis and Charleston Railroad Company to an amount not exceeding in all the sum of one hundred thousand dollars; and to subscribe for and take stock in the Winchester and Alabama Railroad Company to an amount not exceeding in all the sum of fifty thousand dollars.

May subscribe  
to capital  
stock.

Sec. 2. Be it further enacted, That for the purpose of providing funds to pay for said stock so subscribed, the judge of the probate court of said county acting ex officio, as the president of the board of commissioners of roads and revenue shall have power, and he is hereby authorised and required to issue the bonds of said county, signed with his name and duly authenticated with the seal of said county, in such sums as he may think proper; not exceeding in the whole the subscriptions which may be made to the capital stock of said roads as hereby authorised, bearing interest at a rate not exceeding eight per cent. per annum, and payable at such time or times and at such place or places as he may designate: Provided, That said bond or bonds shall not have longer to run than thirty years from date.

May issue bond  
to pay stock.

Proviso.

Sec. 3. Be it further enacted, That in order to advance the credit and preserve the good faith of said county, the stock so subscribed and owned by said county shall not in any manner be pledged, transferred or incumbered without the consent of the holder or holders of said bond or bonds, but shall be held as security for the same until they shall be paid off and discharged; and the proceeds of the sale of said bond or bonds shall be applied to the purchase of iron to be laid down on the tracks of said road within the limits of said county, and not otherwise: Provided, That nothing herein contained shall be so construed as to prevent a transfer, sale or pledge of said stock, or any part thereof, for the redemption of said bond or bonds, or any part thereof, when due and payable.

Stock shall not  
be pledged or  
transferred.

Sec. 4. And be it further enacted, That the commissioners of said county shall have power and authority to levy and collect a tax upon all property, both real and personal, within the limits of said county at the rate of sixty per cent or any less rate on the tax of the state as fixed by the existing law; and the said commissioners shall require the tax collector for said county to give a bond with good and sufficient security in double the amount, at any time to be collected under this act, for the faithful performance of his duties; and the proceeds of said tax so levied and collected shall be paid over to the judge of the probate court, whose duty it shall be to apply them to the payment of the interest on said bond or bonds until other means shall be provided for the payment of the same; and the said commissioners shall have power and authority to do all other acts and things not inconsistent with the provisions of this act, nor with the laws of the state, which may be necessary and proper to give full effect to the objects and provisions of this act.

May levy and collect tax.

Shall be applied to pay interest on bonds.

Approved, December 9, 1851.

[No. 145.]

#### AN ACT

To authorise the county of Barbour to subscribe for railroad stock.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of revenue and roads in and for the county of Barbour be and they are hereby empowered to subscribe for stock, in the name and on behalf of said county of Barbour, to the amount of fifty thousand dollars in the South-western Railroad Company of the State of Georgia: Provided, Said company shall extend their road or a branch thereof and intersect the Chattahoochee river at or near the town of Eufaula, in said county of Barbour.

Comm'rs. court may subscribe for bonds.

Sec. 2. Be it further enacted, That the board of commissioners for said county shall issue bonds under the seal of said county, signed by them in sums as they may deem proper, not exceeding fifty thousand dollars, the amount subscribed bearing interest at a rate not exceeding eight per centum per annum and payable at such times and places as they may therein designate: Provided, Said bonds shall not have longer than thirty years to run.

Shall issue bonds.

Proviso.



Sec. 3. Be it further enacted, That to advance the credit and preserve the good faith of said county of Barbour, the stock subscribed for by this act shall not in any manner be pledged, transferred or incumbered without the consent of the holders of the bonds of said county, but shall remain and be held as security for the same until fully paid off and discharged; and the proceeds arising from the sale of said bonds shall be applied first to the construction of a bridge across the Chattahoochee river at the point of intersection by said South-western Railroad, or by a branch road; and the balance, if any, to the purchase of iron to be laid down upon said road upon the end thereof nearest to said river Chattahoochee: Provided, There may be transfer, sale or pledge of any stock, or any part thereof, made by the said commissioners for the purpose of a redemption of said county bonds when due and payable.

Regulation of  
stock.

Proviso.

Sec. 4. Be it further enacted, That the said commissioners shall keep a true record of all bonds which may be issued by them under the provisions of this act; and upon said record they shall also state to whom the several bonds are sold, the time when and the terms of the sale, and how the proceeds thereof have been applied; and shall likewise keep a true record of all moneys received and paid out by them by virtue of this act.

Comm'rs. shall  
keep record of  
bonds.

Sec. 5. Be it further enacted, That the said commissioners shall have power to levy a tax on all property, real and personal, in said county of Barbour at the rate not to exceed thirty per cent. on the amount of the state tax, which shall be collected by the tax collector of said county as other taxes are or may be collected, and which he shall pay out to the said commissioners; and said commissioners shall require the tax collector of said county to give a bond in double the amount of the tax herein levied, payable to said commissioners and conditioned for the faithful performance of his duties as required by this act; and the said commissioners shall faithfully apply the same to the payment of the interest as it may become due on said bonds, or either of them, until such time as other means of payment may be provided; and the said commissioners are hereby invested with all other powers needful in the premises for the performance of the duties enjoined upon them by the provisions of this act.

May levy a tax.

Sec. 6. Be it further enacted, That before the said commissioners shall make the subscription for said railroad stock, or be authorised to levy the tax aforesaid, an election shall be held at the several precincts in said county, after

Proposition  
shall be sub-  
mitted to the  
people.

giving ninety days' notice thereof by advertisement in the different newspapers published in said county, and to be conducted after the mannner of other elections, for the purpose of ascertaining the sense of the people of said county; that at said election all free white male citizens who have been for three months preceding residents in said county shall be entitled to vote; and if at the said election three-fifths of all the votes taken shall bein favor of this law, the said commissioners shall be authorised to make the subscription for said railroad stock and to levy the tax herein provided; and it shall be the duty of said commissioners to preserve the returns of said election and to record the results off the minutes of their proceedings under this act.

Approved, February 10, 1852.

[No. 146.]

# AN ACT

To incorporate the Peoples' Spring Hill Plank or Shell Road Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John Bragg, J. E. Sawyer, Thomas J. Butler, Henry A. Donaldson, John W. Hinson, Wm. H. Hardaway, Alexander Campbell, James Sanford, Ludolf Parmly, W. H. Barney, O. Eustis, Geo. Conway, Alanson Knapp and L. C. Hubbell be and they are hereby appointed commissioners to open subscriptions for the capital stock of "The Peoples' Spring Hill Plank or Shellroad Company," at such times and places as they or any six of them shall think proper.

Commissioners  
to open books  
of subscriptions.

Sec. 2. Be it further enacted, That the capital stock of said company shall be ten thousand dollars, in shares of twenty-five dollars each, but may be increased to eighteen thousand dollars, if in the opinion of said company such increase may be necessary.

Capital stock.

Sec. 3. Be it further enacted, That as soon as four thousand dollars shall have been subscribed to the capital stock of said company, the subscribers of said stock and all persons who shall thereafter subscribe, their successors and assigns, shall be and they are hereby incorporated by the name and style of "The Peoples' Spring Hill Plank or Shell road Company," and shall have perpetual succession; and by that name may sue and be sued, and may have a common seal, and be capable of buying and selling, making

\$4,000 sub-  
scribed.

Name and style.

Powers, &c.

contracts, holding and conveying real and personal estate so far as may be necessary to carry into effect the purpose and design of said corporation; but nothing contained in this act shall be so construed as to authorise said company to exercise the powers of a banking company or to issue any description of paper or evidence of debt intended to circulate as money.

Sec. 4. Be it further enacted, That the said company shall have full power and authority and is hereby authorised to construct a plank or shellroad along and within the bounds of the road known as the Spring Hill road, leading from Mobile at the new market house, and through Summerville to Spring Hill, as far as the house known as Cottage Hall; and shall have power and are hereby authorised to select either side of said Spring Hill road which they may think proper on which to construct said plank or shell road; and the said company may grade and construct said plank or shellroad along a road now disused which branches on the left from the said Spring Hill road a short distance above the residence of Mrs. Vidmer, and may lay out, grade and construct said plank or shellroad on the most convenient route to said Cottage Hall: Provided, Said road disused be known as a public road; if not a public road, then the right of way must be purchased or pursue the Spring Hill road.

Powers of co.

Sec. 5. Be it further enacted, That as soon as four thousand dollars shall have been subscribed, the said company shall call a general meeting of the subscribers at such time and place as they may appoint; and at such meeting the said subscribers, or a majority of them in value, may elect a president and seven directors, a majority of whom shall constitute a quorum to transact the business or manage the affairs of said company; and the said commissioners, or any three of them, shall be judges of the first election, and in all elections each stockholder shall be allowed one vote for each share held by him, and may vote by proxy.

Election of officers.

Sec. 6. Be it further enacted, That the president and directors of said company shall be chosen annually by the stockholders thereof, and if any vacancy should occur by death or otherwise such vacancy shall be filled by the directors; but the president and directors shall hold their offices until their successors are chosen, and shall have power to call meetings of the stockholders at any time, and shall call such meetings whenever a stockholder or stockholders representing one hundred shares of stock shall in writing require such a call to be made; and a majority of all the

Annual electi'n.

stockholders in value of said company shall have power to remove the president and directors and fill the vacancy thus created.

Sec. 7. Be it further enacted, That the president and directors may appoint all such officers, engineers, agents or servants as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure, and determine their compensation; they also shall have power to pass all such by-laws as they may think necessary and proper to carry into effect the objects of this act, and are hereby empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and to pledge the property of said company for the payment of the same.

Powers of  
board.

Sec. 8. Be it further enacted, That the president and directors shall have power to require the stockholders of said company to pay such instalments on their respective shares of stock in said company at such times as they may think the interest of the said company requires, giving twelve days' notice by advertisement in a newspaper published in the city of Mobile of such call; and upon the failure or refusal of any stockholder to pay pursuant thereto, may, upon giving thirty days' notice, proceed to sell said stock at public sale to the highest bidder, who shall thereby become vested with the title of the delinquent stockholder; and if the said stock should sell for less than the amount due thereon, such delinquent stockholder shall be liable to the said company for such deficiency.

Powers in  
collecting  
stock.

Sec. 9. Be it further enacted, That upon the failure of any stockholder to pay any instalment called for as aforesaid, or any balance due on a public sale of stock as aforesaid, the said president and directors may move the circuit court or city court of Mobile county for judgment at the term at which such motion is made, and the judgment so rendered shall be a lien on the real and personal property or estate of such stockholder, thirty days' notice being given him of said motion; said motion shall be issued by the president of said company, and may be served by the sheriff, who shall be entitled to one dollar for serving the same, and to be taxed in the bill of costs; and upon such judgment execution shall issue as in other cases.

Remedies against  
stockholders.

Sec. 10. Be it further enacted, That after the said company shall have selected the site of said Spring Hill road on which or within the bounds of which to construct said plank or shell road, they may occupy, level and grade so much of said Spring Hill road, and of sufficient width as

Powers and  
privileges of co.  
in making road.



may be necessary to make and construct said plank or shell road thereon, not more than twenty feet wide: Provided, That a free road shall be left open parallel with said plank or shellroad, and without any intervening obstacle, of not less than fifty feet wide, except on such portions where said shell road or plankroad is kept open and free of charge: Provided also, That the bridges and narrow causeway near the residence of James Sanford and Alanson Knapp shall be in common to all persons free of toll: Provided, That by and with the consent of the city authority within the city limits, and by and with the consent of the road commissioners of Mobile county out of said city limits, said company may construct said shell or plankroad, leaving a less width of free road than fifty feet, but said free road shall under no circumstances be of less width than twenty-five feet; and such consent by the city authority and Mobile road commissioners, if given, shall be made a matter of record by said authorities; and if the width of said free road be allowed to be less than fifty feet, the width allowed shall be specifically stated; and if said company shall fail to leave any portion of said free road the width specified at such places, said shell or plankroad shall be free of charge for travel; And provided further, That before this charter shall go into effect and become operative, it shall be sanctioned by the city authorities on so much of said road as lies within the city limits, and by the road commissioners of Mobile county as to that portion of said road lying beyond the city limits.

Proviso.

Sec. 11. Be it further enacted, That after the completion of said plank or shellroad, or any part thereof, the said president and directors may levy and collect tolls upon all persons, animals or vehicles, or property which may travel or be transported thereon; and may erect a toll gate or gates upon said plank or shellroad; and the said company shall place upon boards in legible letters or figures, in conspicuous places upon or near said plank or shell road, a tariff of prices for animals and vehicles which may travel thereon; and on said boards all persons shall be notified that if they travel or drive with any animals or vehicle or vehicles upon any part of said plank or shellroad (other than to cross it when necessary, or at the said causeway, or where said free road shall be of less width than fifty feet,) they shall be liable to pay the whole toll for the whole length of said plank or shellroad; and the said company shall in like manner give notice that the parallel road is a free road; and if any person or persons, with any animal or animals, vehi-

may levy and collect toll and duties in relation thereto.



cle or vehicles, shall travel or drive upon any part of said plank or shellroad (other than as accepted aforesaid) and shall neglect or refuse to pay the said toll at the proper place or places to the proper person or persons, the said company may sue such person or persons so neglecting or refusing to pay said toll before any justice of the peace of Mobile county, or before any court having jurisdiction of the same, and shall recover such toll with costs of suit; if any person shall willfully injure, or in any manner, or in any way, obstruct said plank or shellroad, he shall forfeit and pay triple damages to the president and directors of said company in consequence thereof; and for any such willful injury or obstruction, the person so offending shall be guilty of a misdemeanor and be subject to indictment, and on conviction shall be imprisoned by the court not less than one month nor more than six months; and no person by reason of ownership of stock in said company or the president or any director shall be debarred from being a witness in any such suit as above mentioned.

Penalty for injuring road.

Sec. 12. Be it further enacted, That the said company shall have power and authority to acquire, by purchase or otherwise, a right of way from the owner or owners of land along the side of said Spring Hill road which they select as aforesaid, on which to construct their said plank or shellroad where the said Spring Hill road is not now conveniently wide enough or is obstructed.

May acquire right of way.

Sec. 13. Be it further enacted, That the said president and directors shall keep a minute of all their proceedings and shall enter in well bound books, to be kept for that purpose, all contracts and other acts of said company, which shall be always open to the inspection of any stockholders of said company; it shall also be their duty, at the annual meeting of the stockholders, to make a full report of all their proceedings and of the finances and present condition of the company.

Shall keep record of proceedings.

Sec. 14. Be it further enacted, That the said company shall issue certificates of stock to the stockholders of said company, signed by the president, which shall be assignable, at the pleasure of the holder, according to such mode as shall be provided by the by-laws of said company; but no stock shall be assignable or vest any interest in the assignee until all calls made by the company previous to such transfer are paid.

May issue certificates of stock.

Sec. 15. and be it further enacted, That said plank or shellroad is not to extend within the city limits, except by the consent of the city authorities, and subject to such or-

Restriction.



duances, rules and regulations as they may make: Provided, Said road is not to extend east of the new market or juncture of the Spring Hill and Dauphin street.

Approved, February 9, 1852.

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[No. 147.]

AN ACT

To incorporate the Pratt Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Daniel Pratt, his associates and successors, be constituted a body corporate and politic by the name of "The Pratt Plankroad Company."

Corporators.

Name.

Sec. 2. Be it further enacted, That said corporation may construct a plankroad from Prattville to the Alabama river and add thereto such other plankroads connecting with other plankroads and extending in such directions as said company desire; may run to and cross all other kind of roads, but must not obstruct the same without permission.

Co. may construct road.

Sec. 3. Be it further enacted, That said corporate body may open books of subscription of capital stock in such manner, at such times, places and for such amounts as the requirements of the corporation demand; may have a seal, may make any contract, purchase and sell property pertaining to a plankroad, maintain and defend suits in any court, adopt rules, enact by-laws for the management of the corporate body, declare the stock of any defaulting stockholder forfeited, and do all things usual or necessary for said corporation to carry into execution the provisions and intent of this act.

May receive subscriptions of stock.

Sec. 4. Be it further enacted, That the Capital stock of said company be divided into shares of one hundred dollars each; every stockholder is entitled to one vote for each share, to be represented in person or by attorney; the stockholders may prescribe the officers, their duties and compensation for the organization of the board of directors and the company.

Stock divided into shares.

Sec. 5. Be it further enacted, That when it is desired to obstruct any road or locate a plankroad thereon, the company must apply to the commissioners of revenue and roads of the proper county for permission to change, discontinue or occupy the old road; the commissioners may order the change, discontinuance or occupancy of any road as desired under such conditions as are necessary.

Obstructing or changing public roads.



Sec. 6. Be it further enacted, That when it is desired to construct a plankroad over the land of any person, or use any timber, earth or stone and the right of way, or use of timber, earth or stone cannot be obtained by contract, the corporation may petition the clerk of the circuit court of the county where such land is situated, setting forth the facts; the clerk must thereupon issue a venire to the sheriff of the county, commanding him to summons seven freeholders, who, with the sheriff, must go upon the premises, and the jury must assess the damages for the use of timber, earth or stone, and for the use of the land occupied by the plankroad; before entering upon the duties the jury must be sworn well and truly to assess the damage; the verdict of a majority of such jury must be binding upon the parties and must be by the sheriff returned to the circuit court of the county, and by order of said court become the judgment thereof; and said court must award the cost against either party as to him seems just; the same fees to be allowed clerk, sheriff, jurors and witnesses as are allowed by law in cases of *ad quod damnum*; the judgment of the court must vest in the company all the right necessary for the proper construction and keeping up a plankroad; no right vests in the company until the damages assessed are paid or tendered. When a jury is called as above prescribed, five days' notice of the time and place for the assembling the jury must be given to the party owning or controlling the land, if a resident of the county; if a non-resident, ten days' notice must be made by posting at the court house door and on the premises.

May acquire  
right of way.

Sec. 7. Be it further enacted, That if the right of any land over which a plank road is to pass or from which material is taken is vested in a person incompetent to contract, any one legally representing such incompetent person is hereby empowered to contract and dispose of the right of way and material necessary for the plankroad.

Of acquiring  
right of way.

Sec. 8. And be it further enacted, That when three miles of any plankroad are completed the corporation may charge toll for the transit of persons and property over such road or any plankroad the company connects theewith, and may use all necessary means for the collection of tolls on any part of the plankroad.

May collect  
tolls.

Approved, February 7, 1852.



[No. 146.]

AN ACT

To incorporate the Memphis (Alabama) Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William M. Gilkey, Lemuel A. Kilkey, John B. Coleman, James W. Wallis, John W. Garner, Sidney S. Coleman be and they are hereby authorized to open books of subscription to a plankroad to be made from Memphis, Pickens county, Alabama, in a western direction from said town, so as to intersect with the Mobile and Ohio Railroad at such times and places as they may think proper to appoint; and when six thousand dollars is subscribed thereto, the said subscribers and all who may thereafter subscribe, their assigns and successors, shall be deemed and held a body corporate by the name and style of "The Memphis (Alabama) Plankroad Company," having as such perpetual succession, the right to buy and sell real and personal estate so far as may be necessary to effectuate the designs of this act, and to do all other acts which a body corporate may or can do, except that the said company shall not have power to emit or circulate notes, bills or bonds as money, or to exercise banking powers.

Books may be opened.

Corporate powers.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed six thousand dollars; that the said company shall be organized in the same mode, have the same rights and powers, and be subject to the same duties and obligations in all respects, both as regards the corporation and corporators, as by law have been conferred and imposed by the charter of the Tuscaloosa Plankroad Company, approved the 14th day of December, A. D. 1849, to all intents and for all purposes as if the same were here again repeated and re-enacted.

Capital stock.

How conferred.

Approved, February 9, 1852.

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[No. 149.]

AN ACT

To incorporate the Macon County Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William F. Chilton, James M. Newman, Lovich F. Allen, David Clopton, Wesley F. Hodnett, John Drakeford, Henry A. Howard, William Hora and George W.

Corporators.



Gunn, or a majority of them, thie associates and successors, are hereby declared and constituted a body corporate by the name and style of "The Macon County Plankroad Company," for the purpose of constructing a plankroad from some point on the Montgomery and West Point railroad between Franklin and Notasulga to Tuskegee, in the county of Macon, and from thence to any point on Chunne-nuggee Ridge said company may consider most expedient, and from the Montgomery and West Point railroad in the direction of Tallassee, so as to intersect with the Tallassee branch of the Central Plankroad; and by that name may sue and be sued, plead and be impleaded in any court of law or equity or before any justice of the peace in the same manner as natural persons, and may have and use a common seal; and alter the same at pleasure; and may have and hold real and personal estate necessary to carry on their business, with full power to sell and convey the same; and said company may receive donations of either real or personal estate.

Name and style.

Objects, powers  
&c.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed thirty thousand dollars for each mile of road they may be authorised by this act to construct; that subscriptions to the same shall be regulated by the persons named in the first section of this act, as to the number of shares, the time, place and manner of subscribing, the amount paid in at the time of subscribing, as well as the time and mode of making other payments, with full power to declare forfeitures under rules to be before prescribed when stockholders fail to comply, and to do all things necessary to increase the prompt payment of the several instalments of stock when required; and should any stockholder fail to pay in his subscription when called for, the said corporation shall have the right, on giving ten days' notice to such defaulting stockholder, to move for and obtain judgment in the circuit court of the county of the residence of said stockholder for the amount called o for with five per cent damages thereon with the costs.

Capital stock.

Sec. 3. Be it further enacted, That the capital stock of said company shall be divided into shares of one hundred dollars each, to be assignable and transferable according to such rules and regulations as said corporation may adopt; and at all the meetings of the stockholders of said company each stockholder shall be entitled to one vote for each share up to twenty, and one vote for every five shares over twenty and up to fifty; and for all the shares above fifty, one vote for every ten; and the stock and transfer

Divided into  
shares.



book shall at all times be open to the inspection of stockholders.

Sec. 4. Be it further enacted, That said company may organise as soon as fifty thousand dollars shall be subscribed, when the stockholders shall elect a president and four directors, who shall hold their offices for twelve months and until their successors shall be elected, at a stockholders' meeting to be called by the president or any three directors; and in all meetings of the stockholders a majority of the stock must be represented to enable the meeting to transact business.

when co. may  
organise.

Sec. 5. Be it further enacted, That a majority of the directors shall form a quorum for the transaction of business, and shall have power to make all such by-laws, rules and ordinances as they may deem needful touching the management of the road to be constructed and the effects of the corporation and all matters that may appertain to the same not inconsistent with the laws of this state; and they shall have power to employ such officers, servants and laborers as they may deem necessary for the transaction of the business of the corporation, and to discharge the same at pleasure.

quorum for  
business.

Sec. 6. Be it further enacted, That when said company shall be unable to obtain the right of way for said road from the owner or owners of land through which they may desire to run said road; such compensation shall be paid to the owner or owners as may be assessed by a jury upon a writ of ad quod damnum to be sued and tried in the mode prescribed by the act entitled "an act to incorporate the Tuscaloosa Plankroad Company," approved 14th December, 1849.

may acquire  
right of way.

Sec. 7. Be it further enacted, That property, real and personal, purchased by or condemned to said company shall vest in the corporation.

Right vested.

Sec. 8. Be it further enacted, That should any person willfully injure or obstruct said road, its mills, houses or other property, whereby said company shall sustain any loss, he shall forfeit and pay to the company three times the amount of all damages sustained in consequence thereof, to be sued for and recovered in any court of the county where the damage is done, having jurisdiction in like cases between individuals, and shall be subject to indictment and punishment by fine or imprisonment, or both, at the discretion of the jury trying the offence.

Penalty for in-  
juring road.

Sec. 9. Be it further enacted, That said company shall have the right to charge toll for the passage of persons and

may charge toll.



property at a rate to be established by the directory, and said company shall have the right of running regular stages for the transportation of the mail and persons over said road.

Sec. 10. Be it further enacted, That the said company shall have the right to build branch roads with all the corporate powers and privileges on the same that is conferred by this act in relation to the road herein contemplated.

May construct branches.

Sec. 11. Be it further enacted, That said company shall have power in its discretion to construct a plankroad, either in whole or in part as herein designated, and if they consider it desirable, may construct a railroad between the points designated, or any part thereof, instead of a plankroad; or after the latter may be built to convert it into a plankroad; and in that event all the powers here conferred and all the duties and obligations imposed shall apply to and be obligatory on said company in the same manner as if said contemplated plankroad had been built and continued.

Discretionary powers of co.

Sec. 12. And be it further enacted, That the act to incorporate the Tuskegee Plankroad Company, approved 13th February, 1850, be and the same is hereby repealed.

Repeals.

Approved, February 9, 1852.

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[No. 150.]

AN ACT

To incorporate the Conecuh Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Wilson Ashley, Caleb Johnston, Geo. W. Fork, Mortimer Bolware, Julius C. Robinson, Charles W. Snowden, R. M. Taliaferro, John C. McLean and Joseph H. McCreary be and they are hereby appointed commissioners, any three of whom shall have authority to open books to receive subscription for the capital stock of said company at such times and places as they may deem expedient, after giving at least ten days' notice by putting up advertisements in three different places in the county of Conecuh, at which times and places two at least of said company shall attend and permit all persons who may desire to subscribe for stock in sums of twenty-five dollars for each share.

Comrs to receive subscriptions of stock.

Sec. 2. Be it further enacted, That whenever forty-five thousand dollars shall have been subscribed, the said commissioners, or any five of them, shall give ten days' notice as prescribed in the first section of the time of convening

When co. may be organized.



of the stockholders in the village of Brooklyn, at which time and place the subscribers may elect by ballot seven directors, one of whom shall be by the said directors chosen president; and upon the taking place of the said election the said subscribers shall be and are hereby declared to be a body corporate and politic in deed and in law, by the name and style of "The Conecuh Plankroad Company;" and by that name they, their successors and assigns, have all the powers, privileges and franchises incident to a corporation, and shall be capable of holding the capital stock and the increase thereof, and of enlarging the same by new subscriptions to an amount not exceeding two hundred thousand dollars, and of purchasing, taking and holding to them, their successors and assigns, and of selling, leasing and conveying any or all lands, tenements and hereditaments and any estate or interest in any property, whether real or personal; the said corporation may sue and be sued, contract and be contracted with, pass such by-laws as it may deem necessary to its proper management, have and use a seal and do all other acts which a body politic may do. At all elections each shareholder shall be entitled to one vote for each share owned by him or her; but no one shall vote who has not paid all that has been required on his or her stock, after the first election. The said company may create any additional number of directors.

Corporate  
name and style.

Sec. 3. Be it further enacted, That the plankroad to be constructed by said company shall commence at the boundary line between the States of Alabama and Florida, in the direction of Pensacola, and extend to Brooklyn, in Conecuh county; the said corporation may also continue their road to Greenville, in Butler county, and also construct such lateral road connections therewith as they may deem expedient.

Road to com-  
mence.

Sec. 4. Be it further enacted, That the said Conecuh Plankroad Company shall be invested with all the rights and powers necessary for the proper construction and keeping up of said road and branches. When the road is to be run over the land of any one owning or controlling the same, or it is desired to use the materials therefrom, such owner or controller of such land or material, whether as executor, administrator, guardian, trustee, or in any other judiciary capacity, may contract for the sale of said land or material or right of way over the land for the purpose aforesaid with the president and directors of said company, who are hereby authorised to take a conveyance of the same in the name of the company.

Powers of co.



Sec. 5. Be it further enacted, That if the said president and directors cannot agree with the owner or person controlling said land or materials over which it is desired to run such road, it is hereby made the duty of the clerk of the circuit court of the county in which such land or materials is situated, upon application being made to him by said president and directors, to issue a writ of ad quod damnum, directed to the sheriff, commanding him forthwith to summon a jury of five resident freeholders of the county to assess the damage to ensue from the establishment of said road or use of materials; and such jury before examining the premises shall take an oath to be administered by the officer authorised to administer oaths, that they will enquire into and to the best of their judgment assess the damage accruing to the owner of such land or materials in the same manner that damages are assessed for other roads, and shall award the damages accordingly; and said jury shall to the best of their ability describe the estate so assessed, all of which the sheriff shall return to said clerk with his proper endorsement thereon; the same costs shall be allowed the jury, sheriff and clerk as are usual in ad quod damnum cases as provided by law; and when payment of an equivalent for damages has been previously tendered by said president and directors to the owner or person controlling such land and materials, if the damage assessed by the jury as aforesaid does not exceed the amount so tendered, said owner or person controlling said lands or materials shall pay the cost of said writ and proceedings thereon, and the jury shall so enquire and return their verdict and award; upon the return of said award and verdict it shall be the duty of the judge of the circuit court of said county at the next term of said court to enter a judgment upon the minutes of said court corresponding to such verdict and award, which judgment shall have the same lien and execution may issue thereon in the same manner as other judgments legally rendered in said courts, which verdict and judgment shall vest in said corporation all the rights and privileges which may be necessary for the construction and maintaining of said plankroad without let or hindrance: Provided, No part of this act shall authorise the taking or using any property by said corporation unless the same be previously paid for or adequate security given for the payment thereof.

Proceedings in  
acquiring right  
of way.

Sec. 6. Be it farther enacted, That the said president and directors shall have authority to erect bridges over all streams of water where they desire to construct said plank-

may erect  
bridges.



road or branches: Provided, the navigation of said water course is not thereby obstructed; may charge reasonable toll for persons passing thereon for themselves or their property; and said president and directors may with the said plankroad cross other public roads or highways, but not obstruct the use of the same except by leave of the board of county commissioners of the county where such road passes; and the said commissioners are hereby empowered and authorised to grant such leave, and make and enter an order for the same on the minutes; and the said president and directors shall have power to receive from the municipal authorities of any incorporated town or city in and through which said plankroad may be run, the use of any street or streets, any lot or lots, or any other portion of said cities or towns, deemed necessary for the proper location of said road or any of its branches; and said municipal authorities are hereby empowered to grant the same with such other privileges as said president and directors may require.

Sec. 7. Be it further enacted, that the stockholders may regulate the time, place and mode for electing directors, creating offices, prescribing their duty and compensation, and for fully organising the board of directors; the president and directors may prescribe the amount of each instalment to be paid on the stock subscribed, and may direct the time and place of payment; if any stockholder shall fail to pay the instalment as required on his, her or their stock, the president and directors may, upon giving thirty days' notice, declare the stock held by such defaulting stockholder forfeited to said corporation; and upon such declaration being entered on the records of the corporation at a meeting of a majority of the board of directors, the said stock shall inure to and become the property of said corporation.

Election of directors.

Sec. 8. Be it further enacted, that after three miles or more of said plankroad shall have been completed, it may be lawful for said president and directors to agree upon and fix the rate of toll to be allowed and received of any person or persons who may travel on or use said road for the passage thereon of any carriage or other vehicle, or for the transportation of passengers and the United States mail, or for the use thereof for the driving of any cattle or stock of any description: Provided, No toll shall be demanded from any person at the gate nearest his or her residence from passing from any one part of his or her plantation or farm to any other part of the same, or from any person going to or from funerals or their usual place of religious worship or militia

Co. may collect toll.



masters, when the person is liable to military duty, or elections, when the person is authorised to vote, or any person travelling on foot.

Sec. 9. Be it further enacted, That the president and directors may cause to be erected upon said plankroad suitable gates for the detention of passengers passing thereon until the toll thereon has been paid, and may cause to be erected suitable dwellings and establishments for toll gatherers as may be required.

May erect gates.

Sec. 10. Be it further enacted, That every person who, to avoid the payment of toll, shall turn off from said road, or pass any gate thereon on ground adjacent thereto, and again go on said road to continue his or her route thereon, shall for each offence forfeit the sum of five dollars to said plankroad company; and any person who shall willfully break or throw down any gate, or injure the same on said road, dig up, injure or deface said road, or anything thereto pertaining, or forcibly or fraudulently pass any gate without having paid the toll required, for each offence shall forfeit to the said company the sum of twenty dollars, and be subject also to a suit for the damages resulting from such wrongful act; and any person so offending as provided in this act shall be liable to suit for such forfeiture or damage before any court of this state having jurisdiction of the amount sued for without regard to the residence of the offender.

Penalty for avoiding payment of toll.

Sec. 11. Be it further enacted, That the stock or shares held or owned by any person or persons in said Conecuh Plankroad Company, or any branches thereof, shall be deemed and considered as personal property; and in case of the death of any shareholder, his or her interest may be sold by his or her personal representative in the same manner as the personal estate of deceased persons may be sold by the laws of this state.

Stock personal property.

Approved, February 9, 1852.

[No. 151.]

AN ACT

To incorporate the Cherokee Plankroad Company, and the Gadsden and Springville Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Benjamin C. Yancy, William B. Little, William Griffith, James J. Trippe, Ebenezer Pitts, James Newberry,

Corporators.



James C. Band, Henry Milner, Chisholm Daniel, William B. Watt, George J. Williamson, Walter Billingsley, Thomas E. Cooper, Samuel C. Ward, and their associates, heirs and assigns, are hereby constituted and declared a body politic and corporate by the name and style of "The Cherokee Plankroad Company;" by that name to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered in any court, to make, have and use a common seal, the same to break, alter or renew at pleasure; and the said company is hereby vested with all powers, privileges and immunities which may be necessary to carry into effect the purposes and objects of this act hereinafter set forth, and may have and hold real and personal property to all extent necessary and proper for the same.

Name and style.

Powers.

Sec. 2. Be it further enacted, that the capital stock of said company shall not exceed fifty thousand dollars, and shall be divided into equal shares of not less than twenty-five nor exceeding one hundred dollars per share, as may be determined upon a majority of the persons aforesaid, or a majority of such a number of them as shall consent to act; and the said majority shall have full power to regulate all matters appertaining to the organization and formation of said company, to the opening of books for the subscription of the capital stock, determining upon the time when and the per cent. upon said subscriptions shall be paid, but not more than thirty-three and a third per cent. upon said subscriptions shall be called in in any one year, except by a vote of two-thirds of the stockholders in said company.

Capital stock.

Sec. 3. Be it further enacted, That whenever ten thousand dollars of the stock of said company shall be subscribed for, the said company may proceed to elect a board of seven directors, who shall be owners of stock in said company, to manage the business of said corporation; the said board of directors shall be chosen annually at such time and place as the stockholders determine, and hold their office until their successors are elected and enter upon the duties of their office; and should an election not be held on the day designated, it shall be lawful to hold it on any other day, due notice of time and place being given by advertisement once per week for three consecutive weeks in the nearest newspaper in this state. The said directors shall appoint one of their body a president, also a secretary and treasurer, and fix their salaries, and shall fix amount of treasurer's bond payable to said corporation in such sum as said board may direct, to be approved of by said board,

When co. may  
organise.



conditioned for the faithful and honest disbursement of the funds of said company which may come to his hands under the direction of the said company. Said directors shall have power to employ all such officers, agents, servants and laborers as they may deem necessary for the construction of the proposed road hereinafter designated and the transaction of the business of the company; and the said directors shall have power to make all such by-laws, rules and ordinances as to them shall appear needful, touching the building and management of said road and other property and effects belonging to said company: Provided, the same shall not conflict with the constitution and laws of this state and of the United States; said by-laws not to have force and effect until the same shall have been submitted to and sanctioned by a vote of a majority of the stockholders. Each stockholder shall have the right to vote upon all questions touching the interest of the company; and for each share not exceeding five, such stockholder shall have one vote; and for every three shares, over five and not exceeding twenty, one vote; and for every five shares over twenty shares one vote.

Sec. 4. Be it further enacted, That the said company is hereby authorized to locate and construct a plankroad from a point at or near Spring Garden, or at or near Goshen, in the county of Cherokee, to a point upon the contemplated Coosa and Chattooga River Railroad, as the said company may determine upon, and to erect bridges or establish ferries across any stream intervening, so as in no case to obstruct or prevent navigation in the location and construction of said road; and in procuring the right of way, and for the purposes of erecting all necessary building for the use of said company, and for all and every other purpose necessary to promote the interest of said company, the said company shall have and exercise all the powers, rights, privileges and immunities, and be subject to such restrictions, limitations and provisions as are granted to and imposed upon the Montgomery and Wetumpka plankroad company, by the fourth, sixth, seventh and eighth sections of an act entitled "an act to incorporate the Montgomery and Wetumpka plankroad company," approved 2d January, 1850; and the tenth section of said act is hereby made a part of this act, and the penalty therein imposed shall apply with as full force against persons guilty of a similar offence under this act as if the said section was here inserted.

Co. may acquire right of way.

Sec. 5. Be it further enacted, That the said company may, if they see proper so to do, extend their said road

Road may be extended.



with all the rights and powers herein granted and subject to the same limitations, restrictions and provisions, to the line between Alabama and Georgia, near Alpine, in Brown-town Valley; and the said company may, if it shall be necessary, extend the capital stock to the sum of one hundred thousand dollars.

Sec. 6. Be it further enacted, That all the officers of said company shall each subscribe an oath, to administered and filed with the secretary of the board by a justice of the peace, that they will well and truly do and perform all the duties required of them to the best of their skill and ability, without partiality, favor or affection to any person, association of persons or other corporation.

Oath of officers.

Sec. 7. Be it further enacted, That James Thomason, Eli Jones, Isham Alford, Alemath Bryers, William R. Cobb, Washington Langford, John F. Dill, Chandler Auberry, Wiley Truss, James Leister, George Holloway, Joseph Hughes, Benjamin B. Whorton, William Benson and Mark Phillips, sen., and their associates and successors, be and they are hereby constituted a body politic and corporate by the name of "The Gadsden and Springville Plankroad Company," authorised to locate and construct a plankroad from Gadsden, in the county of Cherokee, to a point at or near Springville, in the county of St. Clair, whose capital stock shall not exceed one hundred thousand dollars.

Corporators of another co.

Name and style.

Capital stock.

Sec. 8. And be it further enacted, That all the rights, powers, privileges and immunities that are by this act granted to the Cherokee plankroad company are hereby granted to the said Gadsden and Springville plankroad company; and all the restrictions, limitations and provisions imposed upon and provided in this act for the last said plankroad company shall apply and appertain to the said Gadsden and Springville plankroad company.

Powers conferred.

Approved, February 9, 1852.

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[No. 152.]

AN ACT

To incorporate the Cahaba and Woodville Plankroad Company.

Whereas, A. C. Crocheron, U. C. Pegues, F. D. Craig, J. W. Pembro, A. L. Speight, William Hunter and E. Bird, on the ----day of-----A. D. 1851, proceeded to incorporate a company to construct a plankroad from Cahaba, in Dallas county, to Woodville, in Perry county, under the provisions of an act entitled "an act to provide for

Preamble.



the incorporation of companies to construct macadamised, graded, turnpike, wooden, railroads or plankroads," approved February 12th, 1850, and having complied with all the requisitions of said act, said company elected a president and board of directors who have received a large amount of subscription to the stock of said road and placed a part of said road under contract to be completed on the 1st day of December, A. D. 1851, and the same is now in successful progress towards completion; and whereas, said company have found the provisions of said act too general, and in fact cumbersome, inconvenient and insufficient for the purposes for which it was intended; therefore,

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the organization of the Cahaba and Woodville Plankroad Company and all the proceedings of said company under the provisions of an act entitled "an act to incorporate companies," &c., approved February 12th, 1851, be and the same are hereby ratified and confirmed.

Organization  
ratified.

Sec. 2. Be it further enacted, That W. W. Fambro, C. C. Pegues, J. D. Craig, R. C. Crocheron, John A. English, Joel E. Matthews and William Hunter, who have been elected and appointed directors of said company under the provisions of an act entitled "an act to incorporate companies," &c., approved February 12th, 1850, their present and future associates or successors, are hereby declared and constituted a body corporate by the name and style of "The Cahaba and Woodville Plankroad Company," for the purpose of constructing a plankroad from Cahaba, in the county of Dallas, to Woodville, in the county of Perry; and by that name and style may sue and be sued, plead and be impleaded, answer and be answered in any court of law or equity of the State of Alabama, and may have and use a common seal and the same to alter and amend at pleasure, and may have and hold real and personal property necessary to carry on their business advantageously, with all power to transfer or convey the same.

Declared a  
body corporate.

Name and style.

Objects and  
powers.

Sec. 3. Be it further enacted, That the capital stock of said company shall not exceed one hundred and fifty thousand dollars, and that subscriptions to the same shall be regulated by the said W. W. Fambro, C. C. Pegues, R. C. Crocheron, James D. Craig, John A. English, Joel E. Matthews and William Hunter and their associates, as to the number of shares, the time, place, manner and mode of subscription, the amount to be paid in, with the time or times when the remaining portions shall be paid and the

Capital stock.



mode of payment, with full power to declare for failures (under certain rules before prescribed) when stockholders fail to comply and do all things necessary to insure the prompt payment of stock when required: Provided, That any regulation thus adopted shall be general and operate on all subscribers alike: And provided, also, That should any stockholder fail to pay in his subscription according to the regulations of said corporation, the same have power, on giving ten days' notice to such defaulting stockholder, to move for and obtain judgment in the circuit court of the county in which such stockholder may reside for the amount he may be in default with five per cent. thereon and costs of suit.

Sec. 4. Be it further enacted, That the capital stock of said company shall be divided into shares of fifty dollars each, to be assignable or transferable according to such regulations as said corporation may adopt; and on all questions arising at business meetings each stockholder shall be entitled to one vote for each share he may own: Provided, That the subscription for stock and the transfer of the same when made shall be registered in a book to be provided by said corporation, which shall at all times be open to the inspection of the stockholders.

Shall be divided into shares.

Sec. 5. Be it further enacted, That when the term of office of the said directors elected as aforesaid shall have expired, the stockholders shall elect seven directors to manage the property, business and affairs of said corporation, one of whom shall be appointed president by the other directors, which directors shall be chosen annually at such time and place as the directors may determine upon: Provided, That the directors for the time being shall serve until their successors are elected; and they or a majority of them shall form a quorum for the transaction of business, and shall have power to make all such by-laws and ordinances as to them may appear needful, touching the management of the road to be constructed and effects of the corporation and all such matters as may appertain to the same not inconsistent with the constitution and laws of the State of Alabama; and they shall have power to employ all such officers, servants or laborers as they may deem necessary for the transaction of the business of the corporation, and to displace, remove or discharge such officers, agents or servants at pleasure.

Election of directors.

Proviso.

Powers.

Sec. 6. Be it further enacted, That the president and directors of said company are hereby authorised to contract for and receive conveyances of land, stone, timber

May acquire right of way.



and wood, or of any other material necessary in the construction of said road; and when the owner and the directors cannot agree upon the price, or when the owner is an infant, non-resident, non compos mentis, upon the application of the president and directors, the sheriff of the county in which the property is situated shall summon a jury of seven disinterested persons, a majority of whom shall upon their oaths to be administered by the sheriff, assess the damages, if any, to which the owner is entitled and render their verdict in writing, which on the application of said president and directors shall, by the clerk of the probate court of the county where said property is situated, be entered of record and operate in law a conveyance of said property to said company on its paying or offering to pay the damages, if any, which are assessed; the sheriff and each of the jurors shall be entitled to one dollar per day, and the clerk one dollar for making such record, which shall be paid by said company; but either party dissatisfied with the verdict of the jury may appeal to the next term of the circuit court of the county, on entering into bond with security before the clerk or judge of the probate court of the county in such manner as he may require, with condition to prosecute the appeal with effect and to pay all costs and damages which may be awarded against him; but the construction of said road shall not be delayed or suspended pending such appeal.

Sec. 7. Be it further enacted, That the stock of said company shall be considered in law personal estate, and as such shall, upon the death of any stockholder, vest in his personal representatives unless by his last will he should bequest it, and shall also be subject to levy and sale by execution at law.

Stock declared personal property.

Sec. 8. Be it further enacted, That in case any person shall willfully injure or obstruct the said road whereby said company shall sustain any loss, he shall forfeit and pay to said company three times the amount of all damages which they may sustain in consequence thereof, to be sued for and recovered in the same manner as provided for by law for individuals in like cases, and shall be further subject to indictment and punished by fine or imprisonment, or both, at the discretion of the jury trying the offence.

Penalty for injuring road.

Sec. 9. Be it further enacted, That said company are invested with the right and power of exacting and demanding such tolls for transportation of persons or property as they may require: Provided, That a tariff of tolls shall be annually established and published at each depot on said

May collect tolls.



road for the information of the public and shall not be in any manner increased until the next annual meeting of the board of directors of said company.

Sec. 10. Be it further enacted, That nothing in this act contained shall be so construed as to allow any bank-privileges to said company, and said company are hereby required to terminate the building within fifteen years from the passage of this act.

Restriction.

Sec. 11. And be it further enacted, That said company shall have power under the provisions of this act to make and construct branch or branches of said road leaving the said road at any point or points and running to any other point or points in the state that may be determined upon by said company, under the same rules and regulations and with the same powers and privileges heretofore granted to said company for the construction of the main trunk of said road; and for this purpose they shall be authorized and empowered to increase their capital stock in the manner hereinbefore prescribed to such an extent as may be deemed necessary and expedient by said company.

May construct branches.

Approved, February 9, 1852.

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[No. 153.]

AN ACT

To incorporate the Lochopoco and Dadeville Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John J. Holly, Allen Kemble, Joseph C. Rawles, James M. Pearson, James Vaughan, William C. Gresham, John Bostock and John Rowe, and their present and future associates and successors, are hereby constituted and declared a body corporate by the name and style of "The Lochopoco and Dadeville Plankroad Company," for the purpose of constructing a plankroad from a point on the Montgomery and West Point Railroad at or near the town of Lochopoco to the town of Dadeville, in Tallapoosa county; and by their corporate name and style may sue and be sued, plead and be impleaded, answer and be answered in all the courts of law or equity in this state, and may have and use a common seal, and to break or alter the same at pleasure, and may have and hold real and personal estate to a sufficient extent to carry on their business advantageously with power to transfer and convey the same.

Corporators.

Name and style.

Objects and powers.



Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed the sum of one hundred thousand dollars, and that books of subscription for said capital stock may be opened in Montgomery, Franklin, Lochopoco, Auburn, Ladeville, and at such other places and at such times and under such rules and regulations as the said John J. Holly, Allen Kimble, Joseph C. Rawles, James M. Pearson, James Taughan, William C. Gresham, John Bostock and John Rowe may adopt and prescribe, with full power to regulate the same and to declare forfeitures under such rules as they may establish when stockholders shall fail to comply with the terms of their subscription for the shares of the stock of said company, and to make all necessary regulations to ensure the punctual payment of the several instalments of stock required as they become due, and generally to do and perform all necessary acts for the organization of said company.

Capital stock.

Sec. 3. Be it further enacted, That the capital stock of said company shall be divided into shares of fifty dollars, which may be assigned or transferred according to such rules and regulations as said company may adopt; and all stockholders shall be entitled to one vote for each share he or she may own at all elections held by said company; and that subscriptions to said stock and the transfer of the same when due shall be registered in a book to be provided by said company.

shall be divided into shares.

Sec. 4. Be it further enacted, That said company shall not be considered as organized until stock to the amount of twenty-five thousand dollars shall be subscribed; after which the stockholders shall elect five directors to manage the business, property and concerns of said company, one of whom shall be chosen president by the directors, such directors to be chosen annually at such times and places as the directors may determine.

\$25,000 subscribed, company may organize.

Sec. 5. Be it further enacted, That the directors for the time being shall serve until their successors shall be appointed, and they, or a majority of them, shall constitute a quorum for the transaction of business, and shall have power to enact by-laws, rules, ordinances and regulations necessary for the construction and management of said road, and all necessary acts for the business transactions of said company; and also have power to employ officers, agents, laborers, servants and engineers, and to remove them at pleasure.

Director's term, quorum, &amp;c.

Sec. 6. Be it further enacted, That if any stockholder shall fail or refuse to pay his subscription to stock accord-

Payment of stock.



ing to the regulations of said company, the company shall have power, on giving ten days' notice to such defaulting stockholder, to move for and obtain judgment in the circuit court in the county in which such stockholder may reside for the amount of his subscription for which he may be in default, with interest thereon at the rate of five per cent. per month from such default until the rendition of such judgment and the costs of the proceedings.

Sec. 7. Be it further enacted, That the president and directors of said company are hereby authorized to contract for and receive conveyances of land, timber and all other materials that are necessary for the construction of said road; and when the owner and the president and directors cannot agree upon the price of lands or the right of way for the construction of said road, or when the owner is an infant, non-resident or non compos mentis, upon the application of the president and directors to the sheriff of the county in which the property is situated, the sheriff shall summon a jury of seven disinterested persons, a majority of whom shall upon oath to be administered by the sheriff assess the damages, if any, to which the owner is entitled, which shall be certified by the sheriff; and upon the application of the president and directors to the judge of probate shall enter the same upon the register of deeds in the county in which the property lies; and upon the payment of the damages or tender of the same by the president and directors such property shall vest in said company. The sheriff and each juror shall receive one dollar per day each for every day in which they are necessarily engaged, and the judge of probate one dollar for making such record, to be paid by the company. But either party that is dissatisfied with the verdict of the jury may appeal to the next term of the circuit court of the county where the property is situated, upon entering into bond with such sureties and in such sums as the clerk of said court may prescribe, which bond shall be conditioned to prosecute the appeal with effect, or to pay and satisfy the costs and damages adjudged by the court trying the case, which bond shall be approved of by the clerk and filed in his office; and the clerk shall thereupon certify to the sheriff that an appeal is prayed, and that the necessary bond has been filed in his office, and it shall thereupon be the duty of the sheriff to certify the proceedings had before him immediately to said court, and the clerk shall place the case upon the trial docket, which shall stand for trial at the next succeeding term of said court, and shall be tried as causes at common law are tried.

Powers of board  
in acquiring  
right of way.



Sec. 6. Be it further enacted, that said company shall have the right to establish, charge and receive rates of toll for the passage or transportation of persons or property over said road, and that said road while in a course of construction, and after it is finished, together with all of its income and profits, shall vest in the several stockholders thereof in proportion to their respective shares of the capital stock in said company.

May cha  
toll.

Approved, February 10, 1852.

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[No. 154.]

AN ACT

To incorporate the Wilkins' Landing Turnpike or Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That L. S. Wilkins and such other persons as he may associate with him are hereby created a body politic and corporate under the name and style of "Wilkins' Landing Turnpike or Plankroad Company," for the purpose of constructing a turnpike or plankroad from Wilkins' Landing, on the Bigby river, via Bladen Springs, to Cullum's Springs, in the county of Choctaw; and by said name and style said company may sue and be sued, plead and be impleaded, answer and be answered in any court of law or equity, and may purchase, hold and improve any real estate for the purposes and objects of said company, and to make, have and use a common seal and the same renew and alter at pleasure.

Corpora

Powers.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each, and be paid as follows: five dollars on each share at the time of subscription, and the balance at such time or times as the president and directors of said company to be hereafter elected shall require; which shares shall be transferable according to such rules as said corporation may make, and the books of subscription to said capital stock shall be opened by said Wilkins and his associates at such time and place as they or a majority of them may deem proper; and so soon as eight thousand dollars shall be subscribed, the said company shall go into an election for a president and five directors to serve for one year or until their successors are elected and qualified; and the said company may commence the construction of said road with all the powers

Capital

and privileges contained in this act, whenever the sum of eight thousand dollars shall be subscribed and the president and directors shall have been elected by the stockholders thereof, and each share shall entitle the holder thereof to one vote: Provided, Said road shall be commenced within two years and completed in four years.

Sec. 3. Be it further enacted, That said company shall have power to acquire by purchase or otherwise a right of way, not exceeding sixty feet in width, from the owners of property through which the road may be designed to pass, and to receive from the commissioners of roads and revenue of Choctaw county, as in their discretion they may deem expedient, the use of any public highway already dedicated to public use or which may by them after the passage of this act be declared a public highway, for the construction of said road and for the erection of toll gates thereon.

Right of way.

Sec. 4. Be it further enacted, That said road shall be of a single track, and if turnpike, at least thirty feet wide; if plank, at least nine feet wide, and shall be substantially and firmly constructed and kept in good repair.

Width of road.

Sec. 5. Be it further enacted, That said company may demand and receive the following rates of toll so soon as three miles of said road shall be finished: For a man and horse, not exceeding ten cents; for a horse and sulky, not exceeding fifteen cents; for a four wheel pleasure carriage and two horses, not exceeding twenty-five cents; for buggies and barouches, not more than twenty cents; for loaded wagons, not more than fifty cents; and for other light vehicles, omnibuses, &c., and for such other persons and things traveling on or carried over said road, such sum in proportion to the above rates as may from time to time be fixed by the board of directors of said company, the same to be printed on a board and exhibited at the gate or gates of said company: Provided, That residents on or near said road shall not be charged exceeding five dollars per annum as a yearly compensation for the use of said road to be paid before enjoying said use.

May collect toll.

Sec. 6. Be it further enacted, That any person or persons who shall unlawfully and intentionally injure in any manner the materials of said road, or shall willfully or intentionally, or in traveling over said road without first having paid the toll due by him or them, displace or destroy the materials of said road, shall be liable to the company for the whole amount of damages that may accrue thereby; and such person or persons shall furthermore be deemed guilty of a misdemeanor and shall be punished accordingly;

Penalty for injuring road.



and should any person or persons refuse to pay toll as allowed by this act at the time of offering to pass the toll gate, the toll gatherer may lawfully refuse a passage to said person or persons; and if any person, article or thing liable for toll shall by any ways pass over said road without payment thereof on demand made and refusal to pay, the toll gatherer may, by warrant in the name of said company from any justice of the peace, recover from such person or owner, person in possession of such article or thing subject to toll, five dollars for every such offence in addition to the toll so due and unpaid.

Sec. 7. And be it further enacted, That the privileges herein granted to said turnpike or plankroad company shall continue for the space of twenty years; and said company shall at all times keep the said road in good repair or forfeit the right of toll; and said company shall keep a correct list of the rates of toll at the sever gates and so places as readily to be seen by all persons passing the same; and for failing in any of the requisitions of this act, or for demanding and receiving more toll than is hereby authorised, said company shall forfeit and pay the person so overcharged the sum of ten dollars, to be recovered before any justice in said county.

Period of privileges.

Approved, February 10, 1852.

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[No. 155.]

AN ACT

To authorise the Tuscaloosa Plankroad Company to borrow money.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Tuscaloosa Plankroad Company be and they are hereby authorised to borrow money, not exceeding the sum of fifty thousand dollars, and to pledge their road and all other property they may own for the payment of any money borrowed under the authority of this act, and to give any other assurances for said loans as they may deem proper and are able to command.

Approved, February 9, 1852.

[No. 156.]

## AN ACT

To amend the charter of the Montgomery and Wetumpka Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the capital stock of the Montgomery and Wetumpka Plankroad Company be and is hereby raised from fifty thousand dollars to one hundred thousand dollars, and that the said fifty thousand dollars of additional stock be divided into shares of one hundred dollars each.

Capital stock increased.

Approved, February 7, 1852.

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[No. 157.]

## AN ACT

To authorise the Central Plankroad Company to borrow money, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Central Plankroad Company be and they are hereby authorised at a full meeting of the board of directors, and by assent of three-fourths of said board at any meeting thereof, to issue, negotiate and dispose of the bonds of said company under seal of the same, not to exceed in the aggregate the sum of one hundred thousand dollars for the use and purposes of said company, and to secure the payment of such bond or bonds by giving a lien upon such plankroad or other property or effects of said company or in such manner as may be agreed upon.

May issue bonds.

Sec. 2. Be it further enacted, That no person shall be allowed the free use of said Central Plankroad, or any part thereof, unless by the vote of three-fourths of the entire board of directors.

Restriction.

Sec. 3. And be it further enacted, That all laws and parts of laws militating against this act be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.

[No. 158.]

## AN ACT

To alter and amend an act approved 13th February, 1850,  
incorporating the Mobile Plank or Shellroad company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the said plank or shellroad may be constructed from any point in the city of Mobile south-west of the Spring Hill Road, by and with the consent of the mayor, aldermen and common council, and thence proceed in a western direction to such place or places as the said company may desire.

Route of road.

Sec. 2. Be it further enacted, That the capital stock of said company may be increased to thirty thousand dollars, in shares of one hundred dollars each.

Capital increased.

Sec. 3. Be it further enacted, That any citizen living upon said road shall have the privilege of traveling from his residence to the first cross street upon the same free of charge.

Privileges in certain cases.

Sec. 4. Be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 18, 1851.

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[No. 159.]

## AN ACT

To amend an act to incorporate the Tuscaloosa Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the president and directors of the Tuscaloosa plankroad company be and they are hereby authorised to sue for and recover on sums of money due said company of fifty dollars and under that sum, whether for calls made by the board of directors of said company for instalments upon the stock of the individual members thereof, or for other debts due said company, before any justice of the peace of the county where such debtor may reside.

Co. may sue for money due.

Sec. 2. And be it further enacted, That for any debt due said company founded on a call of the directors for the payment of instalments on stock, the certificate of the president of the board of trustees that such instalment was duly called for, notice thereof given, and that the same was not paid shall be presumptive evidence of such facts.

Evidence.

Approved, November 28, 1851.



[No. 160.]

## AN ACT

To amend the charter of the South Plankroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the South Plankroad Company shall have the privilege of extending said road to Fort Clairborne or some other part of the Alabama river to be by them determined, together with such other extensions or branches as said company may deem expedient, and to levy and collect tolls for the use of said road or roads, according to the schedule which from time to time may be ordered by the board of directors.

Co. may extend road.

Sec. 2. Be it further enacted, That said company may increase their capital stock from time to time as the interest of the company may require in manner and terms to be determined by the stockholders and directors of said company.

May increase capital stock.

Sec. 3. And be it further enacted, That all laws and parts of laws, contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 7, 1852.

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[No. 161.]

## AN ACT

To incorporate the Battle House Company of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William Jones, jr., Jonathan Emanuel, Sanford Cooley, Trestram E. Bethea, Samuel E. Battle and Garland Goodè, and their present and future associates, are hereby declared and constituted a body corporate by the name of "The Battle House Company of the city of Mobile," for the purpose of owning and being the proprietors of a Public Hotel in the city of Mobile to be known and called the Battle House.

Corporators.

Name and style.

Object.

Sec. 2. Be it further enacted, That the capital of the corporation shall be one hundred and five thousand dollars, to be divided into shares of one thousand dollars each.

Capital.

Sec. 3. Be it further enacted, That said company shall be capable of purchasing and holding all such real and personal property as may be necessary to carry the objects of said company into full force and effect.

Corporate powers.

Sec. 4. Be it further enacted, That said company and

their successors shall have power to contract and be contracted with, of suing and being sued, pleading and being impleaded, defending and being defended, of answering and being answered unto in all courts and judicatures; and said corporation shall have a common seal, and may alter and renew the same at pleasure.

Power to contract, &c.

Sec. 5. Be it further enacted, That the capital stock of said company shall be payable according to the terms and stipulations of an agreement entered into between said persons herein named and their associates on the 19th day of June, one thousand eight hundred and fifty-one; and each subscriber to said stipulation and agreement shall be liable to the company and to the creditors thereof for the amount of his subscription, and may be sued for the same.

Payment of capital stock.

Sec. 6. Be it further enacted, That the property and business of said company shall be managed by six directors, one of whom shall be chosen president, and another of whom shall be chosen treasurer by said directors; all contracts made and entered into by said directors for and in behalf of said company shall be signed by the president and countersigned by the treasurer. The said William Jones, jr., Jonathan Emanuel, Sanford Cooley, Tristram B. Bethea, Samuel G. Battle and Garland Goode shall be the first directors, and shall continue in office from the date of this act until the first Monday of January, A. D. eighteen hundred and fifty-three; from and after which time an election shall be held annually on the first Monday of January under the direction of the directors for the time being for six directors, who shall hold their office for one year, or until their successors are duly elected; and in case of death or resignation of any one of said directors, such vacancy may be supplied by the other directors electing some one of the stockholders to fill the same. It shall be the duty of said directors to call meetings of the stockholders as often as they may deem such meetings expedient, and to report fully to the stockholders the condition of the business and affairs of the company, such meetings to be called and such report made at least as often as quarter-yearly during the time of the erection of said hotel. There shall be had and kept a full and complete record of the proceedings of the meetings of the stockholders, which shall be signed by whomsoever may be elected to act as president and countersigned by whomsoever may be elected to act as treasurer of the same, which shall be placed for safe-keeping in the hands of the president of the directors; and at all such meetings each stockholder shall be entitled to one vote for each share owned by him.

To be managed by 6 directors.

Election, when held.



Sec. 7. Be it further enacted, That the capital stock of said company may be increased to the extent of two hundred thousand dollars, such increased capital to be subscribed for at such times and places in the city of Mobile, and payable at such times as may be prescribed by said president and directors: Provided, Said president and directors shall give at least ten days' notice of the time, place, and the terms of such subscription by publication in some newspaper printed and published in the city of Mobile.

Capital stock  
may be in-  
creased.

Sec. 8. Be it further enacted, That the stock of said company shall be assignable and transferable in such manner and according to such rules and regulations as the president and directors may prescribe; and no stockholder indebted to said company shall be permitted to transfer his stock or receive a dividend on the same, until such debt be paid to the satisfaction of the president and directors.

May be trans-  
ferred.

Sec. 9. Be it further enacted, That a majority of the directors for the time being shall form a quorum for the transaction of business; they shall have power to borrow money for the purpose of aiding in the building and furnishing said hotel; to make all such by-laws, rules and regulations touching the interest and management of the business of said company as they may deem expedient.

Quorum for  
business.

Sec. 10. Be it further enacted, That the directors shall keep or cause to be kept proper books of accounts on which shall be regularly entered all the transactions of said company; and they shall keep also a regular minute of all the proceedings of the meetings of themselves, which books shall be at all times subject to the inspection of stockholders and the directors; upon going out of office shall account to and pay over to their successors all moneys, and deliver them all the papers, books, moneys and assets belonging to the company.

Record shall be  
kept.

Sec. 11. And be it further enacted, That the directors shall, after the building and completing said hotel, make semi-annual dividends of so much of the profits of said company as they may deem proper, and pay or loan the same, to be paid to the stockholders.

Dividends.

Approved, December 16, 1851.

[No. 162.]

## AN ACT

To establish a Homeopathic Medical Society in the city of Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Doctors G. A. Ulrich, John H. Henry, Gustav All-Bright, P. McIntyre, George Singer, Julien Sampson, ----- Angle, ----- Hunley, and their associates and successors of the Homeopathic Society of the State of Alabama, be and are hereby constituted a body corporate under the name and style of "The Alabama Homeopathic Society;" and by that name may sue and be sued, plead and be impleaded, have, hold, possess, enjoy, sell and purchase lands, tenements, goods and chattels; and may adopt such a constitution and by-laws for the government of the said society as may not conflict with this act or with the constitution and laws of the State of Alabama.

Corporators.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the said corporation shall appoint annually three members of the said society to examine all applicants for license to practice the homeopathic system of medicine in the State of Alabama, and who shall perform the same duties that are required by the existing laws of the medical boards of this state, and shall have the same powers.

May license to practice medicine.

Sec. 3. Be it further enacted, That the said corporation shall keep a record book, in which shall be entered copies of all the licenses that shall be issued by the said board; and that no person shall be permitted to practice the homeopathic system of medicine for fee or reward, or to receive compensation for attending as a Homeopathic physician in the State of Alabama, unless license shall have been granted by the said Alabama Homeopathic society (unless such person shall have obtained a diploma from some medical college or shall have obtained a license from some medical board in this state) to such person and upon such evidence of qualification as in the judgment of said society shall entitle him to such license.

Record book shall be kept.

Sec. 4. And be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be and the same are hereby repealed so far as they conflict with the same.

Repeals.

Approved, February 10, 1852.

[No. 163.]

## AN ACT

To incorporate the Graefenberg Medical Institute of Alabama.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a board of trustees consisting of Dr. James T. Shackelford, Dr. Wm. M. A. Mitchell, Dr. J. T. Banks and P. M. Sheppard, the proprietor and professor, and their successors and such assistant professors as said Sheppard deems necessary to execute full courses of lectures are hereby established a body corporate under the style of "The Graefenberg Medical Institute of the State of Alabama."

Corporators.

Name and style.

Sec. 2. Be it further enacted, That said board of trustees shall consist of physicians therein named, to be present and aid the professors in the examination of students, candidates for graduations at the time appointed, on which occasion P. M. Sheppard and his assistant professors shall have power to grant diplomas, confer degrees and licenses upon all persons, who, on examination by said professors and trustees, shall be found proficient in all the branches of medical sciences as taught in the present day, entitling said graduates to all the honors, privileges, benefits and immunities usually conferred by the most approved colleges in the United States; said P. M. Sheppard and his associate professors shall have a common seal and power to make such by-laws and regulations as may be necessary for their government not conflicting with the laws of this state; and may hold real and personal estate not exceeding twenty-five thousand dollars in value, acquired by gift, bequest or purchase for the use of said institute.

Organization and powers of co.

Sec. 3. And be it further enacted, That said P. M. Sheppard and his associates shall present to the legislature of this state, biennially, the proceedings and progress of said medical school; and said act shall continue in force for ten years: Provided, That the legislature may at any time repeal this act for any malpractice in the performance of any of the powers therein set forth.

Shall report to legislature.

Proviso.

Approved, February 7, 1852.

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[No. 164.]

## AN ACT

To extend the Charter of the Mobile Medical Society.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,



That the charter of the Mobile Medical Society, which by its own limitation would expire in December, 1851, be and the same is hereby extended for the period of twenty years, to be computed from the date last mentioned.

Charter extended.

Approved, January 29, 1852.

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[No. 165.]

# AN ACT

To establish a Medical Board at the town of Tuskegee, in Macon county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Doctors Erastus W. Jones, John G. Johnston, Henry A. Howard, Wesley F. Rodnett, William J. Mitchell, John W. Jones, John G. Shale, Jesse M. Vason, William S. Mabson, Noah E. Cloud, Boling A. Blakey, Edwin Fowler, E. B. Johnston, J. J. Mason, Samuel C. Cowen, James M. Foster, A. Lane, Henry H. Hunter, and Lewis Sessions, they and their associates and successors in office, are hereby constituted a board of physicians for the county of Macon, to be known as "The Macon County Medical Board;" and by that name may sue and be sued, plead and be impleaded in every court of law or equity in this state as a private person; and they, or a majority of them, are hereby authorised to elect a president and secretary and such other officer or officers as they may deem necessary to a proper discharge of the duties of said corporation, and discharge all duties incumbent upon said board.

Established,  
and name of  
members.

May organise.

Sec. 2. Be it further enacted, That said board shall meet annually in the town of Tuskegee, in said county, on the first Monday in February in each and every year, and at such other times as they may desire, a majority of whom shall have full power to fill any vacancy or vacancies in said board, whether by death, resignation or otherwise.

Annual meet-  
ings.

Sec. 3. Be it further enacted, That it shall be the duty of said board to examine applicants for permission to practice medicine, to grant license in their discretion, and to all other business authorised or required of medical boards in this state; and they may make all such by-laws, rules and regulations for the proper government of the body not inconsistent with the constitution and laws of the State of Alabama.

May examine  
and license  
applicants.

Sec. 4. Be it further enacted, That said board are hereby required to have and keep a record of their constitution

Shall keep re-  
cord.

and laws and to whom they grant license to practice, and all other acts of said board, which record shall be subject to the inspection of any and all persons interested; and they are hereby required to procure and keep an official seal, with such device or devices as they may deem suitable; and they and their associates and successors are hereby declared capable in law and equity to receive, hold and enjoy donations of real or personal property not exceeding ten thousand dollars in value, to have and to hold the same by gift, grant or purchase in fee simple or otherwise, and shall have power to do and perform all other acts incident to or appertaining to any medical board in this state.

Sec. 5. Be it further enacted, That the jurisdiction of said medical board in the exercise of its privileges and duties shall extend over the county of Macon, and licenses granted shall be good and valid in all parts of the state. No physician shall be allowed to practice medicine or surgery in said county unless he be licensed by the board, or unless such person is at this time a practicing physician or a graduate of some respectable medical college, or has a license from some medical board in this state.

Jurisdiction of board.

Sec. 6. And be it further enacted, That nothing in this act shall be so construed as to affect the rights or privileges of those who may practice the botanical system as now regulated by law.

Reservation.

approved, February 7, 1852.

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[No. 166.]

AN ACT

To incorporate the Tallassee Manufacturing Company, Number One.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William B. Gilmer, James J. Gilmer, Thomas M. Barnett, sr., Thomas M. Barnett, jr., and Frederick W. Jordan, together with their associates and such other persons as may hereafter be associated with them, and their successors, be and they are hereby made and constituted a body corporate in fact and in name, under the style and title of "The Tallassee Manufacturing Company, Number One;" and by that name shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and realise to them and their successors, lands, rents, tenements, hereditaments, goods, chattles and effects of

Corporators.

Name and style.



whatsoever kind, nature or quality, in any amount the body corporate may deem necessary to carry all the objects of said corporation into full force and effect, and the same to sell, grant, demise, alien and dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts having competent jurisdiction; to make, use and have a common seal and the same to break, alter and renew at pleasure.

Sec. 2. Be it further enacted, That said body corporate shall have power to prescribe the number of shares into which the capital stock of said corporation shall be divided, the mode in which it shall be taken, paid, transferred or assigned, and also to prescribe the mode by which stockholders may vote, and the number of votes to which each share shall be entitled: Provided nevertheless, That the rules adopted shall be uniform, equally securing the rights of each stockholder; and also to provide by ballot for the election of such officers as may be deemed necessary for the government and good management of the affairs of said corporation; and also to ordain, establish and put in execution such by-laws, ordinances and resolutions as they shall deem necessary and expedient for the government of said corporation not being inconsistent with the constitution and laws of the State of Alabama or of the United States, and in general to do and execute all and singular the acts, matters and things which may be necessary for manufacturing, subject nevertheless to such restrictions as may hereafter be imposed by the legislature, not inconsistent with the objects for which this act of incorporation was granted: Provided also, That no stockholder shall be held liable for more than the amount of his or her stock in said corporation.

Shares of stock.

Sec. 3. Be it further enacted, That if officers are not elected by the stockholders of said company on the day fixed by the by-laws or ordinances, the corporation shall not for that cause be dissolved; and it shall be lawful to hold such election on some other day according to the rules of said corporation.

Elections may be held.

Sec. 4. Be it further enacted, That if any person or persons shall sell ardent, spirituous or intoxicating liquors within four miles of the factories of said corporation, by the retail or otherwise, such person or persons shall be subject to indictment in the circuit court of the county in which such selling or retailing was done, and be liable to all the pains and penalties then in force against retailing without license: Provided, That nothing herein contained

Sale of ardent spirits within 4 miles prohibited.

Penalty.

Proviso.

shall be so construed as to affect or relate to retail license heretofore granted.

Sec. 5. And be it further enacted, that this corporation shall not exercise banking privileges, but shall have full power to carry the foregoing granted powers into full execution according to the meaning and true intent of the establishment of the corporation.

Restriction.

Approved, January 29, 1852.

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[No. 167.]

# AN ACT

To incorporate the Tallassee Manufacturing Company, Number Two.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Thomas M. Barnett, sr., and his associates, and such other persons as may hereafter be associated with them, and their successors, be and they are hereby made and constituted a body corporate in fact and in name, under the style and title of "The Tallassee Manufacturing Company, Number Two;" and by that name shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and realise to them and their successors lands, rents, tenements, hereditaments, goods, chattels and effects of whatsoever kind, nature or quality, in any amount the body corporate may deem necessary to carry all the objects of said corporation into full force and effect, and the same to sell, grant, demise, alien and dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts having competent jurisdiction; to make, use and have a common seal, and the same to break, alter and renew at pleasure.

Corporators.

Name and style.

Powers.

Sec. 2. Be it further enacted, That said body corporate shall have power to prescribe the number of shares into which the capital stock of said corporation shall be divided, the mode in which it shall be taken, paid, transferred or assigned, and also to prescribe the mode by which stockholders may vote and the number of votes to which each share shall be entitled: Provided nevertheless, That the rules adopted shall be uniform, equally securing the rights of each stockholder; and also to provide by ballot for the election of such officers as may be deemed necessary for the government of the affairs of said corporation; and also to ordain, establish and put in execution such by-laws, ordi-

Shares of stock.

Regulation.

nances and resolutions as they shall deem necessary and expedient for the government of said corporation not being inconsistent with the constitution and laws of the State of Alabama or of the United States, and in general to do and execute all and singular the acts, matters and things which may be necessary for manufacturing, subject, nevertheless, to such restrictions as may hereafter be imposed by the legislature not inconsistent with the objects for which this act of incorporation was granted: Provided also, That no stockholder shall be held liable for more than the amount of his or her stock in said corporation.

Sec. 3. Be it further enacted, That if the officers are not elected by the stockholders of said company on the day fixed by the by-laws or ordinances, the corporation shall not for that cause be dissolved; and it shall be lawful to hold such election on some other day according to the rules of said corporation.

Elections.

Sec. 4. And be it further enacted, That this corporation shall not exercise banking privileges, but shall have full power to carry the foregoing granted powers into full execution according to the meaning and true intent of the establishment of the corporation.

Restriction.

Approved, January 28, 1852.

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[No. 168.]

# AN ACT

To confirm and amend the Charter of the Bibb County Steam Mill Company.

Whereas, William S. Phillips, Archibald P. McCurdy, Virgil H. Gardner and John W. Lapsley, on the twenty-fifth day of November, eighteen hundred and fifty, made their declaration in writing, in pursuance of an act of the legislature of this state, entitled "an act to authorise manufacturing, and for other purposes," approved February 4, 1846, for the purpose of forming a body corporate and politic under the name of the "Bibb County Steam Mill Company," which declaration having been recorded in the office of the probate judge of the county of Bibb, in this state, is in the words and figures following to wit:

Preamble.

The State of Alabama:

A declaration made the twenty-sixth day of November, eighteen hundred and fifty, for the purpose of forming a corporation company for the purposes hereinafter specified, by virtue and in pursuance of the act of the general assem-

Articles of association.



bly of the State of Alabama, entitled "an act to authorise manufacturing, and for other purposes," approved February the fourth, eighteen hundred and forty-six.

Sec. 1. We, William S. Phillips, Archibald P. McCurdy, Virgil H. Gardner and John W. Lapsley, of the state aforesaid and county of Dallas, desiring to form a corporate association for this purpose, and acting under, by virtue and in pursuance of the legislative act above referred to, make this our declaration and declare these articles of association (as agreed on by us respectively for our government) and the government of our future associates and successors.

Article 1. Said company shall be entitled and its corporate name shall be "The Bibb County Steam Mill Company;" by which name it shall contract and be contracted with, sue and be sued, plead and be impleaded; and by this its corporate name shall be capable of purchasing and holding all property, real and personal, and may be lawfully held by said company; it shall have and use when required, a corporate seal, to be used and applied as may be designated in and by the subsequent regulations and by-laws of the company.

1st--name and style.

Art. 2. This company is formed for the purpose of manufacturing principally by means of steam and machinery lumber and wooden materials generally, and flour and meal; it will be located and carry on its business in the county of Bibb, in said state.

2d--Objects.

Art. 3. The capital stock of said company shall be twenty-four thousand dollars, in shares of one hundred dollars each; of this stock each the undersigned members of the company do subscribe for and hold an equal amount, that is, six thousand dollars in sixty shares each, of the stock so subscribed for and held; the undersigned have each paid the sum of forty-six hundred and twenty-three dollars, the balance to be paid at such times and in such instalments as the wants and interests of the company may require.

3d--capital stock.

Art. 4. In all matters pertaining to the management and interest of the company, each stockholder shall be entitled to one vote for every share owned and held by him in the stock of the company; and it shall require a vote representing a majority of all the stock to carry any proposition or measure affecting the interests of the company; and no debt exceeding one hundred dollars shall be created except for the ordinary expenses of the company, unless sanctioned or authorised by stockholders owning or representing three-fourths of the capital stock.

4th--Of voting by stockholders.



Art. 5. No new stockholder shall be admitted into the company so as to act and participate in the control or management of its affairs, unless by the express assent of stockholders or persons lawfully representing three-fourths of the stock of the company.

5th--admission  
of stockholders.

Art. 6. Stockholders or persons lawfully representing a majority of the stock of the company shall constitute a quorum to do business and to make such by-laws and regulations for carrying on and managing the business of the company as may be deemed expedient not inconsistent with this declaration nor the laws of this state; and shall have power to create such officers as the interests or convenience of the company may seem to require; and shall have power to define the duties, prescribe the action and fix the compensation of officers or agents of the company.

6th--quorum  
for business.

Art. 7. The company shall at all times have a lien on the stock and dividends of all the stockholders, respectively, for all instalments which may be called for on the unpaid stock, and for any and all debts which may become due to the company from any stockholder.

7th--lien on  
stock.

Art. 8. If the company should desire to enlarge and extend its business beyond the means which the present amount of stock may justify, the capital stock may be increased to not exceeding double the amount of the present capital stock, if done with the express assent and concurrence of the stockholders or persons lawfully representing as much as three-fourths the stock of the company, and not otherwise.

8th--capital  
may be in-  
creased.

Art. 9. No dividends shall be declared and paid until authorised and directed by a vote of stockholders or others representing lawfully a majority of all the stock of the company; and no dividend shall at any time be paid until all debts or liabilities of the company shall have been discharged or amply provided for.

9th--dividends.

Art. 10. The company shall keep a book in which shall be recorded the minutes of its proceedings; it shall also keep regular and systematic accounts of its business operations, showing the amounts of its expenses and other disbursements, and of its income and profits; all of which books and accounts shall at all times be open to the examination and inspection of all members of the company.

10th--record  
shall be kept.

Art. 11. When any instalment on the unpaid stock shall be called for, any stockholder who shall on notice thereof fail to pay such instalment, shall be charged with interest thereon from the time of notice until payment; and if any stockholder shall fail to pay any instalment which may be

11--payment  
of stock.

called for on his stock, or shall fail to pay any debt he may owe the company within thirty days after due notice and demand by the officer or agent of the company authorized to give such notice and make such demand, the company shall have the right and power to declare the stock of such defaulting stockholder or debtor forfeited, unless such defaulting stockholder or debtor shall, within a time to be prescribed by the company, not less than thirty days, make good his default by paying the instalment or instalments in arrears and debt or debts due to the company. If the defaulting stockholder or debtor shall not make good his default within the time specified, as provided after the declaration of forfeiture provided for, his stock shall become forfeited to the company, and being forfeited shall be sold to the highest bidder for cash, on ten days' notice being given by advertisement in some newspaper in the county in which the sale may take place, and after defraying all expenses of the sale and advertisement, apply the proceeds or so much as may be required towards the payment of all that may be due the company from the defaulting stockholder, including interest: Provided, That it shall require the vote or sanction of stockholders or persons lawfully representing two-thirds of the stock of the company, exclusive of the stock which may be held or controlled by the defaulting stockholder or debtor; and such stockholders or persons shall in all cases possess this power.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the said above written declaration of the said Phillips, and McCurdy, and Gardner, and Lapsley shall be and the same is by this act confirmed to them, their associates, successors and assigns as a lawful act of incorporation, under which and in the name of "The Bibb County Steam Mill Company," the said Phillips, McCurdy, Gardner and Lapsley, and their associates, successors and assigns shall be and are hereby declared to be a body corporate and politic; and the said company in its corporate name of Bibb County Steam Mill Company shall be capable in law and equity of suing and being sued, of contracting and being contracted with, of pleading and being impleaded, and of owning and holding in perpetuity all property, real and personal which may pertain to the business of sawing lumber and planing the same, and converting the same into materials for building or other useful purposes; and may own and hold in perpetuity such quantity of land as may be sufficient to supply said company with abundance of timber for the

Declaration of  
articles of asso-  
ciation con-  
firmed.

Corporate  
name and  
style.

business of the company; and said company in its corporate character shall have the right of making all contracts and doing all manner of business not inconsistent with the objects of the association nor contrary to the laws of the state, and may increase its capital stock from time to time, as the members of the company may desire; may have and use a common seal, and may make such regulations and by-laws for the management and government of the affairs of the company as may be deemed best not inconsistent with the constitution or laws of the state, and may invest its surplus capital or means in such manner as the stockholders or members of the company may deem for the use and benefit of the whole.

Sec. 2. And be it further enacted, That the said company shall have the right to contract with the owner or owners of land for the right of way from the place where the buildings and machinery of said company may be located to the Alabama and Tennessee River Railroad, and for land sufficiently near to and adjoining said railroad for a lumber yard, and necessary turn outs and tracks; and if the owner or owners of the lands which may be required for these purposes cannot agree about the same, then it shall be lawful for said company, acting by its agent or agents, to apply to the clerk of the circuit court in the county in which the lands may be situate for a writ of ad quod damnum, who shall issue the same directed to the sheriff of his county, commanding and requiring him to summon seven disinterested freeholders of his county, whose duty it shall be to attend the summons of the sheriff to view the premises and assess the damages which the owner or owners of the land may sustain by the condemnation for the use of said company for land for right of way as aforesaid, (not exceeding fifty feet in width,) and for a lumber yard, turn outs and tracks, &c., as aforesaid, not exceeding three acres at such place on or near the railroad as said company may desire: Provided, That such condemnation shall not interfere with any dwelling or yard attached thereto, or garden, or orchard, or crib, or stables, or other useful buildings. Any five of the jury who may be so summoned shall be authorised to render a verdict and may act alone. The person or person whose land is sought to be condemned shall have as much as five days written notice (if a resident of the count in which the land may be situated) of the time and place appointed for the meeting of the jury of review; if not a resident of the county, but of the state, shall have in addition to the five days' notice, two days at least for

May purchase  
lands and ac-  
quire right of  
way.



every fifty miles of his or their residence from the place appointed for the assembling of the jury which shall be on the lands sought to be condemned; which niteces shall be sent by the sheriff of the proper county in official character, or by his deputy, who may also summon the jury provided for and do whatever act is by this act required of the sheriff. If the lands sought to be condemned should belong to the estate of a deceased person, the notice required shall be served on his, her or their administrator or executor; if to a minor or minors, on the guardian; if to a non-resident, the notice shall be given by advertisement for four consecutive weeks in some newspaper published nearest to the lands sought to be condemned, which notice for publication shall be signed by the clerk of the circuit court and set out the facts so far as may be required for a proper notice. It shall be the duty of the sheriff to attend promptly to the duties required by this act, and for failure he shall be liable to be sued as for neglect of duty in other cases; and for his services he shall be allowed such compensation as is by law allowed for similar services. It shall be his duty in person or by deputy to attend said jury in making their review, when the jury shall by viewing the premises and by such other evidence as may be adjudged, become satisfied of the damages which the owner or owners of the land to be condemnend may sustain by the condemnation, they shall render their verdict in writing, which shall be subscribed by such of the jury as may concur in it, and be attested by the sheriff or his deputy, and by him returned to the office of the clerk of the circuit court of the proper county, who shall preserve the same and furnish a certified copy of it to the parties desiring and paying therefor. If either party should be dissatisfied with the verdict of the jury, the dissatisfied party may appeal to the circuit court of the county in which the lands lie, if the appeal should be taken in thirty days after the rendition of the verdict, giving the opposite party as much as five days' notice of the appeal. If no appeal should be taken within the time specified, the lands sought to be condemned shall vest in and become the property of the company on the payment by the company of the sum assessed by the jury as the damages to be sustained by the owner or owners of the land, which payment of the damages may be made to the judge of probate of the county in which the lands lie, in the absence of the party entitled to receive the money, for which the said judge shall be responsible on his official bond to the party entitled; the cost of the proceedings in



case no appeal shall be taken, to be paid by the company; in case of appeals, the trial to be de novo, and the question of damages and costs to be determined by the jury in the circuit court; and satisfaction of the judgment founded on such verdict in the circuit court to vest the title of the lands sought to be condemned in said company. The jury who may be empaneled to try the matters in controversy shall take an oath or solemn affirmation to render their verdict without partiality and according to truth and justice.

Approved, February 10, 1852.

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[No. 169.]

# AN ACT

## Incorporating the Benton County Iron Works.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John M. Moore and Noah Goode, their associates and successors, be and they are hereby made and created a body corporate by the name of "The Benton County Iron Works." They shall have power to raise by subscriptions, in shares of one hundred dollars each, a capital stock of one hundred thousand dollars, which may be increased to ten hundred thousand dollars, whenever a majority of the stockholders may deem it advisable so to do.

Corporators.

Name and style.

Capital stock.

Sec. 2. Be it further enacted, That said corporation may purchase and hold such estate, real, personal and mixed, as may be necessary for the use and purpose of said corporation, or as it may receive in payment of debts, and may dispose of the same; and may sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity by its corporate name; and may have and use a common seal, and make such by-laws, rules and regulations for their government as they may deem proper: Provided, They be not inconsistent with the constitution and laws of this state and the United States.

May hold property.

Sec. 3. Be it further enacted, That capital stock of said company shall be considered personal property and be transferred on the books of said company; each stockholder shall have one vote for each share he may own or represent in the capital stock of said company at the election of the officers and directors of said company; and upon all questions to be decided by a vote of the stockholders, a majority of shares shall govern.

Stock personal property.

Sec. 4. Be it further enacted, That said John M. Moore

and Noah Goode, and their associates, may open books of subscription of said capital stock whenever or wherever they or a majority of them may think proper; and whenever they shall be fifty thousand dollars of said capital stock subscribed, the stockholders may, upon two weeks previous notice in writing, or by publication for the same period in some newspaper published in this state of the time and place of meeting, meet in person or by proxy and proceed to elect such directors and other officers as they may deem necessary for conducting the affairs of said company, such directors and officers to hold their office for such time as the company may prescribe and until their successors shall be elected and inducted into office.

May open books  
of subscription.

Sec. 5. Be it further enacted, That the directors of said company shall annually submit to the stockholders a written statement on oath or affirmation of themselves of the amount of capital stock paid in, the amount of general assets belonging to said company and of what they consist, and also the liabilities.

Annual report  
to be made.

Sec. 6. And be it further enacted, That this act of incorporation shall continue in force for fifty years.

Duration.

Approved, February 10, 1852.

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[No. 170.]

# AN ACT

To incorporate the Elba Manufacturing Company, in Coffee County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Cary Curry, Hosea Holley, Jappa T. Yelverton, J. E. Atheson, William Speares, John Cravey, William Holley and Noah Carroll, their associates and successors, be and they are hereby constituted a body politic and corporate under the name and style of "The Elba Manufacturing Company;" and by that name may sue and be sued, plead and be impleaded, may have and use a common seal and alter the same at pleasure; and shall have power to do all acts incident to bodies corporate, and may purchase land and personal property, and dispose of the same for the benefit of the company to such extent as they may deem necessary for the interest of the company and the successful prosecution of their business of sawing, grinding and manufacturing articles for sale or use, of cotton, wool, iron or earth.

Corporators.

Name and style.

Powers.



Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed fifty thousand dollars, which shall be divided into shares of two hundred and fifty dollars each; that books of subscription thereto may be opened under the superintendence of any three of the above named persons; and each subscriber shall, at the time of subscribing, pay twenty per cent. on the amount of his or her subscription and the residue in such instalments as may be called for by the directors.

Capital stock.

Sec. 3. Be it further enacted, That if any subscriber shall neglect or fail to pay any instalment called for, the president of the company may sell a sufficient number of his shares at public outcry for cash, to pay all arrearages and the expenses of the sale: Provided, That ten days' notice shall be first given by advertisement put up at the court-house in Coffee county; and such delinquent subscriber shall be liable to action in the name of the company to recover such arrearages.

Payment of stock.

Sec. 4. Be it further enacted, That said stockholders shall have power to make all such rules, regulations and by-laws respecting the elections and duties of their officers and tenure of office, the transfer of stock, what shall constitute a quorum, the mode of voting, the meetings of the stockholders, and all other matters and things concerning the management of the corporate affairs as they may deem necessary, so that the same be not contrary to the constitution and laws of this state.

Powers to make rules.

Sec. 5. And be it further enacted, That the stock of said company shall be deemed personal property; that the factory and machinery of said company shall be at the falls of White Water, near Elba, in Coffee county; and that the provisions of this act shall remain in force fifty years.

Stock personal property.

Approved, February 10, 1852.

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[No. 171.]

AN ACT

To incorporate the Tuscaloosa and North Fort Manufacturing Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Daniel J. Hargrove, Abner Winn, Richard C. McLester, James H. Dearing, Robert P. Frierson, James Guild and Reuben Searcy, and their present and future associates, are hereby declared and constituted a body corporate by the

Corporators.

name and style of "The Tuscaloosa and North Port Manufacturing Company," for the purpose of manufacturing cotton, hemp, wool or any other material; and by that name and style may sue and be sued, plead and be impleaded, answer and be answered in any court of law or equity, and may have and use a common seal, and the same alter or amend at pleasure, and may have and hold real and personal property to an extent necessary to carry on their business advantageously, with power to transfer or convey the same.

Name and style.

Objects.

Powers.

Sec. 2. Be it further enacted, That the capital stock of said company shall not exceed two hundred thousand dollars, and that subscriptions to the same shall be regulated by the said Hargrove, Linn and their associates, as to the time, place, when and where said subscriptions shall be taken, the amount to be paid on subscribing, and the time or times when the remaining portion shall be paid in, with full power to regulate the whole matter, and to declare forfeitures under certain rules where stockholders fail to comply, and to do all things necessary to insure the punctual payment of the several instalments of stock required as they become due: Provided, That any regulation thus adopted shall be general and operate on all subscribers alike: And provided also, That should any stockholder fail to pay in his subscription of stock according to the regulations of said corporation, the same shall have power, on giving ten days' notice to such defaulting stockholder, to move for and obtain judgment in the circuit court of the county in which the factory of said corporation may be located for the amount of subscription for which he may be in default, with five per cent. thereon and cost of suit.

Capital stock.

Sec. 3. Be it further enacted, That the capital stock of said corporation shall be divided into shares of one hundred dollars each, be assignable and transferable according to such regulations as said corporation may adopt; and the number of votes to which each stockholder may be entitled on all questions arising at business meetings shall be equal to the number of shares of stock he may hold, each share being entitled to one vote: Provided, That the subscriptions of stock to said corporation and the transfers of the same (when made) shall be registered in a book to be provided by said corporation and kept at or near the factory buildings, which shall at all times be open to the inspection of each and every stockholder.

To be divided into shares.

Sec. 4. Be it further enacted, That said company shall not be considered as organised until stock to the amount of forty thousand dollars is subscribed, after which the stock-

Organization of company.



holders shall elect five trustees to manage the property and concerns of said corporation, one of whom shall be appointed president by the other trustees; said trustees to be chosen annually at such time and place as the stockholders may determine upon: Provided always, That the trustees for the time being shall serve until their successors are elected; and they, or a majority of them, shall for a quorum for the transaction of business, and shall have power to make all such by-laws, rules and ordinances as to them may appear needful, touching the management and disposition of the property and effects of said corporation and all such matters as may appertain to the concerns of the same; and they shall have power to employ all such officers, agents and servants as they may deem necessary for the transaction of the business of said corporation, and to displace such officers, agents and servants at pleasure; and they shall at all times keep or cause to be kept proper books of accounts in which shall be regularly entered all the transactions of the corporation; and they shall also keep regular minutes of the proceedings of all their meetings, and also those of the stockholders, which books shall at all times be subject to the examination of stockholders.

Sec. 5. Be it further enacted, That said trustees shall make annual dividends of so much of the profits of said corporation as they may think proper and cause the same to be paid to the stockholders.

Dividends.

Sec. 6. Be it further enacted, That this corporation shall not exercise banking powers or any other powers not necessary and proper to carry out the foregoing granted powers.

Restriction.

Sec. 7. And be it further enacted, That said corporation may erect its factory buildings and machinery at any point deemed most suitable within the limits of Tuscaloosa county.

Powers.

Approved, February 10, 1852.

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[No. 172.]

AN ACT

To incorporate the Montgomery Mechanics' Association, and the Mobile Mechanics' Association.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John P. Figh, John Frazier, Samuel Swan, George Cowles, Thomas B. Burton, and their associates, be and they are hereby created a body corporate and politic under the

Corporators.

name and style of "The Montgomery Mechanics' Association," with perpetual succession, and with power to sue and be sued, to plead and be impleaded, to have and to hold real or personal property to an amount not to exceed two hundred thousand dollars, and to do all acts and things common to bodies corporate and politic; but shall not exercise banking privileges by issueing and circulating as money any paper whatever.

Name and style.  
Powers.

Sec. 2. Be it further enacted, That the members of said association shall have power to make any rules and regulations and adopt any by-laws they may think proper for the furtherance and accomplishment of the purposes contemplated by said association, not, however, to conflict with any law of the State of Alabama or of the United States.

May make  
rules.

Sec. 3. Be it further enacted, That said association may adopt such a system of savings as they may think proper; to receive on deposit moneys and invest the same for the depositor, and pay such interest thereupon as they may agree upon, and just and true records of all such transactions make and preserve.

Powers.

Sec. 4. And be it further enacted, That Thomas J. McCoy, J. P. McBryde, Richard Redwood, John C. Hodges, and their associates, be and they are also created a body politic and corporate under the name and style of "The Mobile Mechanics' Association," with all the privileges, rights and powers granted in the foregoing act to the Montgomery Mechanics' Association.

Corporation of  
Mobile Me-  
chanics' Asso-  
ciation.

Approved, February 2, 1852.

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[No. 173.]

AN ACT

To change the name of the Montgomery Manufacturing Company, and to authorise an increase of the capital stock of the same.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the name of the Montgomery Manufacturing Company is hereby changed to that of "The Winter Iron Works;" by which name it shall hereafter be known, sue and be sued, plead and be impleaded, without in any manner in other respects changing the privileges or obligations now conferred by law.

Name changed.

Sec. 2. Be it further enacted, That the said company may increase its capital stock from time to time as may be

Capital stock  
may be incr'd.



deemed expedient by the stockholders, to an amount not exceeding the sum of five hundred thousand dollars.

Sec. 3. And be it further enacted, That all laws and parts of laws militating against this act be and the same are hereby repealed.

Repeals.

Approved, December 18, 1851.

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[No. 174.]

AN ACT

To incorporate the Mechanics' Savings Company of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John C. Hodges, Charles W. Gazzam, Allen H. Ryland, Thomas J. McCoy, Richard H. Redwood, Benjamin F. Scattergood, W. W. McGuire, James F. McBryde, John L. Lowe, Thomas J. Riley, Albert M. Quigly, Jarvis Turner, W. Carrington, John L. Gliddon, Archelaus Faber, Robert Ellis, Isaac D. Spear, Bartholomew S. Skate, Geo. W. Gregory and Jonathan Kirkbride, or such of them as shall become subscribers thereto, and their successors, be and are hereby created a body corporate by the name and style of "The Mechanics' Savings Company of Mobile," for a term of thirty years.

Corporators.

Name and style.

Sec. 2. Be it further enacted, That the objects and duties of said company shall be to receive and deposit for safe keeping the earnings and savings of working people and others, to give to said depositors receipts or other vouchers for said deposits, to pay to said depositors interest on such terms and legal rates as may be agreed on with the depositors, or as may be provided for in the by-laws in the absence of special agreements, and to repay the principal to the several depositors on their call, order or check, or on the surrender of receipts or other vouchers.

Objects.

Sec. 3. Be it further enacted, That the said company shall not be compelled to receive a smaller deposit at any one time than five dollars, and shall not be compelled to pay interest until the amount of twenty-five dollars shall have been deposited or accumulated by any one depositor.

Regulation as to amount of deposits.

Sec. 4. Be it further enacted, That with a view to secure the depositors from any loss by the said company, the subscribers composing the company shall each pay in on subscribing the sum of one hundred dollars as a common stock, and shall also pay five dollars per month thereafter; that is to say, on the first Monday in each month, until the

Depositors secured.

sume paid in shall amount in the aggregate to at least six thousand dollars as a common stock.

Sec. 5. Be it further enacted, That the common stock of the company, or any portion thereof, may be invested in any stock created by the State of Alabama or by the United States, or may be loaned on pledges of unincumbered real estate with bond and mortgage security.

Common stock  
may be invest-  
ed.

Sec. 6. Be it further enacted, That in order to enable the company to pay interest to depositors, and to pay the necessary expenses of the company, as well as to compensate its members and subscribers for the use of the common stock, the company shall have power to lend its surplus funds on securities and to discount and purchase promissory notes and bills of exchange.

May lend sur-  
plus funds.

Sec. 7. Be it further enacted, That the said company may have a common seal, shall have power to sue at law, and shall be liable to be sued at law; it may acquire and hold as a corporation real estate sufficient only for its business uses and purposes, and such real estate as may be acquired in the way of security or by legal collections of its dues.

Corporate pow-  
ers.

Sec. 8. Be it further enacted, That the business of the said company shall be managed by seven trustees to be elected by the subscribers to the common stock, to be elected annually, one of whom shall act as president; and the trustees shall appoint one person to act as secretary and treasurer, with compensation to be fixed by the trustees.

Business to be  
managed by 7  
directors.

Sec. 9. And be it further enacted, That the trustees of said company shall frame and adopt by-laws and regulations for the government of the company, for the management of its business, for the transfer of stock, for the loan and collection of its surplus funds, and for such other business as may be proper: Provided, Nothing in said by-laws and regulations shall be contrary to the laws of this state or of the United States.

May make by-  
laws.

Approved, February 7, 1852.

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[No. 175.]

AN ACT

To incorporate the Tuscaloosa Fire Company Number One, of the city of Tuscaloosa.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Robert Blair, Edward Watkins and Obediah Berry,

Corporators.



their associates and successors, are hereby incorporated by the name and style of "The Tuscaloosa Fire Company, Number One;" and by said name and style the aforesaid company is hereby authorized and empowered to sue and be sued, to have, hold, occupy and possess goods and chattles, lands and tenements of the value of ten thousand dollars, and to make such by-laws, rules and regulations for the proper organization and good government of the company not inconsistent with the constitution and laws of the United States and the State of Alabama and the provisions of this act of incorporation, as they may deem proper.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the said Tuscaloosa Fire Company shall consist of not less than twenty-five nor more than fifty members.

No. of company.

Sec. 3. Be it further enacted, That the company shall be required to keep in good order one fire engine with the apparatus thereunto belonging.

Duty.

Sec. 4. Be it further enacted, That the members of said company shall be exempt and hereby are exempted from military duty, road tax, performance of jury duty as grand and petit jurors in the circuit and probate courts of Tuscaloosa county, so long as they continue to perform the duties of firemen under this act: and that any member who shall have served five consecutive years in said company without any intermission, or who shall have been disabled in the performance of duty as such, shall be constituted an exempt fireman, and as such be entitled to all the privileges and immunities of active members of the company.

Members exempt from public duty.

Sec. 5. Be it further enacted, That to enable the members of said company to enjoy the privileges and immunities granted them by this charter, it shall be the duty of their foreman to place in the office of the sheriff of Tuscaloosa county, semi-annually, a true statement of the names and members of said company on oath; and it shall be the duty of the sheriff of Tuscaloosa county to prevent the said names from being placed in any of the jury boxes of said county.

Duty of foreman.

Sec. 6. And be it further enacted, That when the aforesaid company shall habitually neglect the performance of their duty as firemen, or violate the provisions of this charter, it shall be the duty of the mayor of the city of Tuscaloosa to issue his notice calling on said company to appear before the board of mayor and aldermen of the city of Tuscaloosa at their next regular meeting and show cause why

Co. neglecting performance of duty, may forfeit charter.

their charter should not be declared forfeited; and if the said company shall be found guilty of such habitual neglect, the said mayor and aldermen shall declare their charter forfeited.

Approved, February 10, 1852.

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[No. 176.]

# AN ACT

To authorise certain persons therein named to clear out Pass Keron, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Robert D. James, Duke W. Goodman, Raphael Summers, Richard L. Fearn, S. M. Wilson and Frederic S. Blount, and their associates, be and they are hereby authorised to enter upon and take possession of such portion of the shoal or shell reef lying between Grant's Pass and Dauphin Island, or of any channel running through the same which has become obstructed by reason of deposits therein or otherwise, as in their judgment they may deem most advisable, and cut, excavate, or clear out a channel or channels of sufficient depth and width to afford a good and safe inland passage for steamboats and other vessels in the trade between the waters of Mobile Bay and those of Lake Ponchartrain and other places on the Gulf of Mexico; and said James, Goodman, Summers and Blount, and their associates, are authorized to build all such lighthouses, beacons, wharves, buoys, and other buildings, as may be deemed necessary for the more effectually accomplishing the objects of this act.

Beneficiaries.

Privileges conferred.

Sec. 2. Be it further enacted, That so soon as said parties and their associates shall have cut, cleared out, deepened or excavated a channel of sufficient depth and width to admit the passage of steamboats or other vessels drawing five feet water, they shall be authorised to charge and receive from all such boats or vessels as may go in or out of said channel a toll or tonnage duty at a rate not to exceed ten cents for each ton of the registered measurement of such boat or vessel; and any boat or other vessel that shall become liable for toll as aforesaid, whose captain, owner, or other person who may be in charge, neglecting or refusing to pay the same for five days after the same shall have been demanded, shall be liable to be sued for the amount of all toll due, together with fifty per cent.

Channel opened, toll may be charged.

And collection enforced.



damages; and said boat or other vessel and their owners shall be liable for the same, together with costs, to be collected before any court of competent jurisdiction: Provided, however, That suits for tolls may be instituted before the expiration of five days, if deemed advisable; and said party and their associates may prevent the passage of any boat or other vessel through the channel aforesaid until the tolls are settled.

Sec. 3. Be it further enacted, that said party and their associates be and they are hereby invested with all the rights and powers necessary for the construction and repair of said channel or channels; and it is stipulated and agreed, that for and during the space of twenty-five years from the passage of this act, said party and their associates shall have and enjoy the exclusive right and privilege of occupying, possessing and enjoying the channel so cut, cleared out, deepened or excavated by them, and all the incidents thereto, with the tolls to be levied on vessels, steamboats, or other water crafts passing through the same, as mentioned in the second section of this act: Provided, That said work shall be so far advanced as to admit the passage of steamboats or other vessels drawing five feet water within twelve months from the passage of this act, otherwise this act to be null and void.

Powers and  
rights vested.

Sec. 4. Be it further enacted, That said party and their associates shall have power to sell and convey any portion or all the rights and privileges conferred on them by this act, at any time after they have so far completed said work as to admit the passage of steamboats or other vessels drawing five feet water: Provided, however, That should there not be five feet water in said channel for six consecutive months after the expiration of the twelve months allowed for its completion, then all the rights and privileges conferred by this act shall expire.

May sell rights  
and privileges.

Sec. 5. Be it further enacted, That should any person or persons willfully or carelessly do any act whereby said work shall be injured or impaired, or the navigation of the same shall be obstructed, or whereby said party and their associates, or others interested in the same work, shall be hindered or disturbed in the prosecution or enjoyment of the said work, such person or persons so offending shall be liable to a fine of not exceeding five hundred dollars, to be sued for and recovered before any court of competent jurisdiction; and they shall also be liable to the proprietors of said work for all damages which they may have caused to them by such act, to be sued for and recovered before any competent tribunal.

Penalty for in-  
juring or impair-  
ing navigation  
of said channel.

Sec. 6. And be it further enacted, That crafts and floats shall pass said channels free of charge which draw two and one-half feet of water or less: Provided, That this act shall not allow any craft or float to obstruct the regular steamboat passage along said channel which may be opened under this act.

Certain crafts  
exempt from  
toll.

Approved, February 9, 1852.

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[No. 177.]

# AN ACT

To incorporate the North Alabama Telegraph Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Samuel T. B. Morse, James J. Donegan, Charles B. Patton, Robert Fearn, George P. Beirn, C. C. Clay, sr., Samuel Cruise, Joseph B. Bradford, John Simpson, Thomas J. Foster, James E. Weakley, William Cooper, George G. Canale and Richard Towns, and their associates, who have acquired or may acquire from said Morse the right to construct and carry on the Electro-Magnetic Telegraph by him invented and patented through the northern part of this state, on a route leading from any point on the Nashville and Chattanooga Railroad, by way of Huntsville, to connect with the Morse or Southern Telegraphic Line at Florence or Tuscumbia, are hereby created a corporation and body politic for the purpose of erecting and maintaining a line of said telegraph on the route aforesaid and transmitting intelligence by means thereof under the name and style of "The North Alabama Telegraph Company:"

Corporators.

Powers and  
privileges.

Provided, That said company shall or cause to be delivered every communication despatched by their line or lines to the party to whom said communication is addressed, if within one mile of the office where the despatch has been received; and in case of a failure to do so shall pay all damages arising therefrom.

Proviso.

Sec. 2. Be it further enacted, That the stock of said company shall consist of shares of fifty dollars each, to be issued to the owners of the patent right and to those who may hereafter furnish funds for the construction and improvement of said line of telegraph, as the owners and subscribers may hereafter agree upon.

Capital stock.

Sec. 3. Be it further enacted, That the corporation aforesaid, or any one or more of them acting under the direction of a majority of said corporation, shall be and are

May receive  
subscriptions.



hereby empowered to take such steps as they may deem expedient to procure subscriptions for the completion of said line, to collect the moneys subscribed, and to disburse them for the purposes of construction, and to perform all other acts necessary to expediate the procurement and proper application of the funds aforesaid.

Sec. 4. Be it further enacted, That said corporation shall have the power to build or purchase any connection or side lines, having acquired the right to do so from the owners of Morse's patent, and may enlarge their capital for that purpose.

May build side lines.

Sec. 5. Be it further enacted, That as soon as the line of telegraph shall be completed from a point on the Nashville and Chattanooga Railroad to Huntsville, or from Huntsville to Florence or Tusculumbia, the said corporation shall, by advertisement in a newspaper published at Huntsville, call a meeting of the subscribers and proprietors of the patent right constituting the corporate body herein created at such place as may be most convenient for a majority of the subscribers, for the purpose of choosing a president and board of directors, a secretary and treasurer for the management of their affairs. Annual meetings of said corporation shall be held at such times and places as may be prescribed by the stockholders at their first or subsequent meetings; and special meetings shall be called by the president and directors whenever in their opinion the interest of the company may require it; such reasonable notice shall be given of the time and place of such meeting as may be prescribed by the by-laws of the corporation. In case of the death or resignation of any director, a majority of the board shall have power to elect another to fill his place.

Lines completed, co. may organise.

Sec. 6. Be it further enacted, That the president, directors, secretary and treasurer shall hold their offices for one year, and until their successors shall be elected, and shall exercise such powers pertaining to the building and management of said telegraph not incompatible with the constitution and laws of the state and of the United States, as may be authorised by the by-laws of said corporation.

Term of office in said co.

Sec. 7. Be it further enacted, That at every election each share shall entitle its holder to one vote, and absent stockholders may vote by agents or proxies producing written authority. In case of a tie, the election shall be decided by lot.

Of voting.

Sec. 8. Be it further enacted, That the telegraph company hereby incorporated shall have power to sue and be sued, complain and defend in any court of law or equity, having competent jurisdiction to make and use a common

Corporate powers.

seal, and the same to alter at pleasure, to purchase and hold such real and personal estate as the lawful purposes of the corporation may require, and the same to sell and convey when no longer so required, to appoint such officers and agents as may be necessary to manage the business of the corporation, and allow them a suitable compensation, and to make by-laws not inconsistent with any existing law for the management of its property, the regulation of its affairs and the issue and transfer of its stock.

Sec. 9. Be it further enacted, That the corporation hereby created shall have power, by contracts with other persons or bodies politic, to connect their lines of telegraph with lines out of this state.

May connect  
lines.

Sec. 10. Be it further enacted, That the magnetic telegraph company shall have power to set up their fixtures along and across any of the roads, streets or waters of this state without its being deemed a public nuisance or subject to be abated by any private person; the said fixtures to be so placed as not to interfere with the common use of such roads, streets and waters, or with the conveniences of any land owner more than is unavoidable; but the said corporation shall be responsible for any damage which any person or corporation may sustain by the erection, continuance, or use of such fixtures; and in any action brought for the recovery thereof by the owners or possessors of any land, the damage to be awarded may, at the election of such corporation, include the damages of allowing said fixtures permanently to continue; on paying of which damages, the right of the corporation to continue such fixtures shall be confirmed as if granted by the parties to the suit: Provided, That no person or body politic shall be entitled to sue for or secure damages aforesaid until the said corporation, after due notice, shall have failed or refused to remove in reasonable time the fixtures complained of; and every person who shall destroy or commit a trespass upon the fixtures of said incorporation erected in pursuance of the authority hereby given, actually interrupting or with intent to interrupt the operations of the telegraph, shall pay the said corporation one hundred dollars for such offence, and shall be further liable for all damages which said corporation may suffer in repairing the injury and in the interruption of their business, to be recovered in any court of trespass.

Power of co. in  
constructing  
line.

Sec. 11. Be it further enacted, That dividends of so much of the profits of the company as shall be deemed expedient shall be declared semi-annually in the months

Dividends.



of January and July, in each year: Provided, That no dividend shall be declared which shall impair the capital stock of said company.

Sec. 12. Be it further enacted, That said company shall have the power and authority to purchase out the right of any improvements that may be made in the magnetic telegraph from time to time.

May purchase rights, &c.

Sec. 13. And be it further enacted, That said company shall establish a telegraph office in any town or village in this state through which the proposed line shall pass when every the citizens thereof shall subscribe and pay in towards the construction of said telegraph line the sum of three thousand dollars, which shall entitle the persons so paying in three thousand dollars to be members of said incorporation.

May establish offices.

Approved, February 10, 1852.

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[No. 178.]

AN ACT

To incorporate the Alabama and Mississippi Telegraph Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Henry C. Hopburn, and his associates and successors, be and they are hereby constituted a body corporate by the name of "The Alabama and Mississippi Telegraph Company;" and as such they may sue and be sued, plead and be impleaded, in all the courts of law and equity; they shall have power to use a corporate seal, and the same to alter or break at pleasure.

Corporators.

Name.

Sec. 2. And be it further enacted, That said company are hereby authorised to establish a telegraphic line of communication from any point on the Alabama river to any point on the western boundary line of this State which they may desire; and they are hereby authorised and empowered to plant the posts for said line and put the wires thereon along the sides of any of the public highways of this state, in such manner, however, as not to interfere with the public convenience in the use of said roads.

Powers.

Approved, February 10, 1852:

[No. 179.]

## AN ACT

To amend an act incorporating the President and Directors of the Wetumpka Bridge Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the capital stock of said company can be increased whenever a majority of the stockholders demand; the president and directors shall adopt such by-laws for enforcing the payment of instalments on the capital stock hereafter required and for forfeiting the stock of any defaulting stockholder as may be deemed necessary.

Capital stock  
may be in-  
creased.

Sec. 2. Be it further enacted, That said company, by its president, may subscribe for and hold, in the corporate name, such stock as a majority of the stockholders resolve to take in any plankroad or other work of internal improvement, may hold, own and enjoy any property, real or personal, by gift, grant, or purchase, and sell and convey the same.

May take stock  
in P. Road Co.  
&c.

Sec. 3. And be it further enacted, That said company shall keep the bridge in good order and condition, unavoidable accidents excepted; and if this bridge is at any time impassable, said company shall cause to be kept a good and sufficient flat or ferry boat for the transportation of persons and property across the river at or near the old ferry in Wetumpka, and shall have the free and uninterrupted use of each bank of the river for a ferry landing; the charges for ferriage shall not exceed the rates of toll allowed by law for crossing the bridge; said company may continue to use, exercise and enjoy the powers and privileges granted by this and the original act of incorporation, so long as a bridge or ferry is kept up as by said acts required.

Liability of co.

Approved, December 16, 1851.

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[No. 180.]

## AN ACT

To incorporate the Mobile Baymen's Society.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That for the purpose of promoting propriety of conduct and benevolence of action among the baymen of Mobile, Jack Fisher and others, his associates, are hereby incorporated under the name and style of "The Mobile Baymen's Society;" and under that name shall have all the powers,

Corporators.



rights and privileges as are necessary to promote the objects of their association, and such as are usually granted to corporations for benevolent societies; that as soon after the organization as may be the members of the society shall elect a president and other officers necessary for their purpose and proceed to adopt a constitution and by-laws for the government of the society.

Approved, February 3, 1852.

Powers.

[No. 181.]

# AN ACT

To incorporate the Mobile Temperance Hall Association.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James E. Saunders, D. F. Merrill, W. R. Clarke, Robert A. Baker, R. T. Starr, W. R. Robertson, Price Williams, John Haig and John M. Taylor, their associates and successors, those who now are or shall hereafter be stockholders in the Mobile Temperance Hall Association, in the city of Mobile, are hereby declared to be a body corporate and politic, and to be known as "The Mobile Temperance Hall Association;" and by said name and style shall have perpetual succession, may sue and be sued, plead and be impleaded, and have all legal and equitable remedies whatever; and they may purchase, have, hold, lease, or rent, real and personal property in an amount not to exceed fifty thousand dollars.

Corporators.

Name and style

Powers.

Sec. 2. Be it further enacted, That the stockholders of said association may, as soon as five thousand dollars of said stock has been subscribed, (which said stock shall be in shares of not less than fifteen dollars each, and of which at least five dollars in cash per share shall be paid at the time of subscribing,) shall organise themselves by choosing such officers as they may deem necessary; and the election of said officers shall be annually thereafter, or at such other time or times as said association shall designate by its by-laws.

Co. may organise.

Sec. 3. Be it further enacted, That said association, when so organised, may adopt such by-laws, rules and regulations as they may deem necessary not inconsistent with the constitution and laws of the State of Alabama and of the United States; the objects of said association are hereby declared to be the erection of a temperance hall and the promotion of the cause of temperance in connection

May adopt by-laws.

Objects.



therewith, by such lawful and honorable means as may from time to time be devised; and they may impose and collect such penalties for violations of the by-laws by any of the officers, directors or stockholders of the association as they may determine: Provided, That no fine over five dollars shall be imposed for any one offence.

Sec. 4. And be it further enacted, That any three of the persons named in the first section of this act may, after first advertising the same ten days previously in any one of the city papers, open books for the subscription of the stock of said company; and when said books are opened the members of the temperance associations in the city of Mobile shall, for the space of thirty days, have the exclusive privilege of taking said stock; but all stock remaining untaken after thirty days shall then be freed from said restriction; and the persons appointed by said Temperance Hall Association may keep said books open for such length of time, and may re-open them from time to time as said association may think fit and proper; and this incorporation shall be perpetual.

Books of sub.  
may be opened.

Approved, January 30, 1852.

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[No. 182.]

# AN ACT

To incorporate the Alabama Historical Society.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Historical Society of this state be and the same is hereby incorporated by the name and style of "The Alabama Historical Society."

Incorporated.

Name and style.

Sec. 2. And be it further enacted, That the said corporation may take and hold real and personal property to the value of ten thousand dollars, may make a constitution and by-laws for the government thereof not inconsistent with the constitution and laws of this state, may sue and be sued, and do all other acts and things consistent with the object of the said corporation which any other corporation may or can do; but shall not exercise banking privileges or emit notes, bonds or bills to circulate as money.

Corporate powers.

Restriction.

Approved, February 5, 1852.

[No. 183.]

## AN ACT

To incorporate the Annual Alabama Conference of the Methodist Episcopal Church South.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the itinerant preachers of the Alabama Conference of the Methodist Episcopal Church South, and their successors, be and the same are hereby declared a body corporate by the name and style of "The Annual Alabama Conference of the Methodist Episcopal Church South;" and as such may sue and be sued and have perpetual succession.

Incorporated.

Name and style.

Sec. 2. Be it further enacted, That at each annual conference of the preachers of the said church there shall be elected for the government of the said corporation by the members thereof, three trustees, a treasurer and secretary, who may, under the direction of said conference, make such rules and regulations not inconsistent with the laws of this state as they may think necessary.

Trustees to be elected.

Sec. 3. Be it further enacted, That the said corporation may receive and hold real and personal property to the value of fifty thousand dollars, to be employed under the direction of the said trustees for the advancement of the interest of religion and education, and for charitable purposes.

May receive and hold property.

Sec. 4. Be it further enacted, That the said trustees shall cause a record to be made in a book kept for that purpose of all the funds of the corporation and the disposition made thereof, which shall be accessible at all times to any itinerant preacher of the Alabama Conference.

Record shall be kept.

Sec. 5. And be it further enacted, That no gift, devise or bequest made to the said corporation shall fail because of any mistake in the name or description thereof, if the intention of the donor, grantor or deviser can be ascertained by intrinsic proof.

Mistake shall not affect rights of corporation.

Approved, January 27, 1852.

[No. 184.]

## AN ACT

To incorporate the Preachers' Aid Society of the Methodist Episcopal Church South.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Jefferson Hamilton, William Murrah, Ebenezer Hearn,

Corporators.



Greenberry, Garrett, Thomas W. Dorman, George Shaeffer, Joshua T. Heard, Elisha Calloway, John D. Fisher, and their associates, be and they are hereby declared a body corporate by the name and style of "The Preashers' Aid Society of the Alabama Annual Conference of the Methodist Episcopal Church South;" and as such shall have perpetual succession, may sue and be sued, and receive and hold real and personal property not exceeding in value the sum of fifty thousand dollars, the proceeds or income thereof to be expended in aid of the sick and necessitous preachers and their families of the said Alabama Conference or those under their charge.

Name and style.

Powers.

Sec. 2. Be it further enacted, That for the management of the affairs of the said corporation there shall be elected at each annual conference of the said church, by the members thereof, a president and three trustees, a treasurer and secretary, who shall hold their offices for one year and until their successors are elected.

Board of trustees shall be elected.

Sec. 3. Be it further enacted, That the said president and trustees, under the direction of said conference, may make such rules and regulations for the government of the said corporation as may be necessary, and appoint such agents and officers as they think proper; they shall keep and record in a well bound book a list of the names of the members of said corporation and of all their acts and proceedings, showing the amount of the capital of said corporation, the income derived therefrom each year and the disposition made thereof, to which any member of the said corporation shall have access.

May make rules, &c.

Sec. 4. And be it further enacted, That no gift, devise or bequest made to the said corporation shall fail because of mistake in the name or description thereof, if the intention of the donor, grantor, or deviser can be ascertained by extrinsic proof.

Misnomer shall not affect rights of corporation.

Approved, February 7, 1852.

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[No. 185.]

AN ACT

To incorporate the Hebrew Benevolent Society of Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Hebrew Benevolent Society is hereby



incorporated under the constitution, rules and regulations hereinafter set forth:

Incorporated.

## CONSTITUTION.

### Article I.--Founding of the Society.

The Society shall be called "The Hebrew Benevolent Society," and this name cannot be altered until the year is expired; and to alter the same shall require the unanimous voices of the members.

Constitution.

### Art. II.--Officers of the Society.

Sec. 1. The officers of this society shall consist of a president, a vice-president, a cashier, a secretary and two trustees.

Officers of the association.

Sec. 2. All the officers are to be chosen by the majority of votes; and on the anniversary day of this society there shall be a new election annually.

Sec. 3. In case of death or the resignation of any of the officers, there shall be a new election at the next regular meeting, and the member elected shall possess the same rights and privileges as his predecessor.

### Art. III.--Duties and Privileges of the Officers.

Sec. 1. It shall be the duty of the president to preside at all meetings of the society, to bring all business before the meeting; he shall not have the right to vote, but in all requisite cases he shall give the casting vote; he shall also have the right to call extra meetings when he shall deem it necessary.

Duties.

Sec. 2. The vice-president shall possess all the powers and perform all the duties of the president in his absence.

Sec. 3. The secretary shall perform all the duties appertaining to the office of secretary, and also collect all moneys due to the society and pay the same over to the cashier within fifteen days after the collection thereof.

Sec. 4. The cashier shall take charge of all moneys belonging to this society; he shall also keep a correct account of the funds and exhibit his books and the funds at each quarterly meeting of the society.

Sec. 5. At all business transactions by the officers of the society the two trustees shall be present and give their votes.

### Art. IV.--Regulations of the Meetings of the Society.

Sec. 1. The members of this society shall meet on the last Friday of every month at the designated place of meeting and at an hour chosen by the president.

Regulations of meetings.

Sec. 2. Any member failing to attend the meeting on the regular day of the same, provided he is in the city, shall be subject to a fine of fifty cents.

Sec. 3. Only sickness, or sickness in his family, or absence from the city on necessary business, can be taken as an excuse; and should a member plead any other excuse, then two-thirds of the present votes can release him from the fine.

Sec. 4. Any member disturbing the meeting shall be liable to a fine of fifty cents, which fine only the president shall have a right to impose upon him, and only two-thirds of the present members can relieve him of the same.

Sec. 5. Should four members of the society think it necessary to call an extra meeting, it shall be the duty of the president to comply with their demand.

Sec. 6. As soon as the meeting is called to order, every member shall be seated, and when having risen to speak shall address the president.

When two or more members shall rise at the same time, the president shall name the one who shall speak first.

No motion shall be put nor decision had until such motion shall have been seconded, and when seconded shall be stated by the president for discussion and decided by the votes of the majority.

Any member leaving the meeting before it shall have been adjourned by the president shall be fined fifty cents.

#### Art. V.--Income of the Society.

Sec. 1. The monthly dues of each member shall be fifty cents, payable to the secretary at the regular meetings of the society.

Income of society.

Sec. 2. Any member not having paid for three successive months his regular dues shall neither have a right to make a motion nor to vote until such are paid; should he neglect to pay his dues for six successive months, it shall be the duty of the president to notify him that should he not pay his dues within the six months next ensuing, the majority of the society will expel him if they find him able to pay.

Sec. 3. Any member who may get married shall pay to the society ten dollars.

#### Art. VI.--Objects and Benefits of the Society.

Sec. 1. The first appropriation of the funds of the society shall be for the purpose of a suitable grave-yard.

Objects of the society.

Sec. 2. No money of the society can be used for any other purpose than to pay doctors and for medicine for sick members:



For the funeral expenses of a deceased member, or his wife and children.

Every Hebrew that may not even belong to the society shall not be assisted in distress, but the sums he shall receive shall not be less than three dollars and not exceed five dollars, after the president and the two trustees shall have authorised the cashier by written order to pay the same.

Sec. 3. Should any member or one of his family become so dangerously ill as to require watchers, two of the members shall be appointed to stay with such sick member six hours during the day and four hours during the night constantly, after which two others,, and so on in rotation.

Sec. 4. Members not residing in the city are not entitled to watchers nor compelled to watch.

Sec. 5. The secretary shall keep a watch book, in which shall be kept a list of all those who may have performed their watch duty and of those who have not.

Sec. 6. In order to know in what order the members shall do watch duty, the president shall place the names of all the members in a box and draw thence the names two by two, and the order in which the names are drawn shall be the order in which the members shall serve; and those who have served as watchers cannot be compelled to serve again until every member has performed his watch.

Sec. 7. The like regulation as the above is to be observed when required for the dead.

Sec. 8. Should any member be absent whose duty it is to watch, another person shall be appointed; and the president with the two trustees shall decide whether the absent member shall pay the expenses for watching.

Sec. 9. Should any member of the society die before the society has purchased a grave-yard, it shall be the duty of all members to accompany the body of the deceased to a Hebrew grave-yard at the expense of the society.

Sec. 10. After the society shall have purchased a grave-yard, every member in town shall attend the funerals of deceased members, and all those neglecting so to attend shall be fined five dollars; the same fine refers to the preceding section.

Sec. 11. On the occurrence of the death of a member, or any of his family within fifty miles of this city, two members of this society shall be appointed to bring the body to this city to the grave-yard of the society at the expense of the latter.

Sec. 12. On the death of a member, the society shall burn lights for thirty days, and also on annual return of his death day according to the watch book.

Sec. 13. Any member notified to attend the meeting on a death day neglecting to attend shall be subject to a fine of fifty cents; also for neglecting to visit at-----on every meeting during the thirty days, provided he shall have been duly notified, shall be subject to a fine of fifty cents.

Sec. 14. When the funds of the society shall have amounted to fifty dollars, the same shall be loaned to any of the members at the usual interest on his note endorsed by two good securities; should no member wish to borrow, then the aforesaid sum of fifty dollars may be loaned to others on the same terms as to members.

Sec. 15. The cashier is empowered to pay all orders under the sum of five dollars, should the same be authorised by the president and the two trustees, but any sums over five dollars must first be sanctioned by a majority of the members.

Sec. 16. The cashier shall give security, if the members require it.

#### Art. VII.--Admission of Members.

Sec. 1. Any Israelite, even though not residing in the city, wishing to become a member of this society may be admitted as such, should the majority of the members present at the time of his application be favorable thereto; and should a majority be opposed to his admission as a member, he shall have the right to apply again for membership at the expiration of three months from the time of his rejection; but should he be rejected on three successive applications, his petition for admission shall not again be considered.

Admission of  
members.

Sec. 2. At the expiration of three months from date, it shall be determined by the society what sum will be required for newly elected members as the initiation fee.

#### Art. VIII.--Resignation of Membership.

Sec. 1. Any member of this society wishing to resign must hand in his resignation at a regular meeting and pay all his dues; it shall be optional with him to give the reasons for said resignation.

Of member-  
ship.

Sec. 2. Any member of this society absent for a longer time than six months can enter upon his full rights and privileges only by paying all his dues.

#### Art. IX.--Dissolution of the Society.

Sec. 1. Five members shall be sufficient to continue the society, but should there not be more than four members, the society shall be dissolved.

Dissolution of  
society.

Sec. 2. Should the society at any time be dissolved, the



last four members shall transfer all their funds, as well as other property belonging to the society, to some incorporated Hebrew congregation either in America or Europe, with the stipulation that such congregation continue to the day of its dissolution to burn lights on the death days of the deceased members of this society.

Sec. 3. The trustees of the congregation to which the said funds and other property may be transferred shall accompany the four members of this society to a justice of the peace to confirm said transfer, and shall bind themselves, their congregation and successors thereto by their signature and oath, and shall also give receipt for the said funds and other properties.

Sec. 4. All the books, papers and deeds of the society shall be transferred at the same time to the same congregation with a request that they take good care of the same, especially of those in which the death days of the deceased members are registered.

Sec. 5. It is positively prohibited to make any change of this constitution before the expiration of one year; after the expiration of this term an alteration of this constitution can only be made by the desire and votes of three-fourths of the members present; by-laws can be made at any time at a regular meeting by a majority of the members present.

Approved, February 9, 1852.

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[No. 186.]

AN ACT

To incorporate the City of Selma.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of Selma in said state shall hereafter be called "The City of Selma;" and the said city shall embrace and include within its corporate limits under this act all the tracts, lots and parcels of land which are embraced within the limits of the said town of Selma as now constituted; and the present and future inhabitants of said city as by this act incorporated shall be and they are by this act made and constituted a body corporate and politic under the name and style of "The City of Selma;" under and by which name and style, and acting by and through the proper officers of said incorporation hereafter to be designated, all the corporate powers and privileges of said city by this act granted shall be executed and carried into effect

Name changed.

Limits.

Corporate  
name and style.

as required; and under its corporate name aforesaid the said city incorporation shall sue and be sued, plead and be impleaded, answer and be answered unto; and may purchase, receive and hold, and sell, grant, alien and assure or let property, real and personal, may have and use a common seal which may be changed at pleasure, and may do and perform all acts incident to such corporations not inconsistent with the laws of the state; the jurisdiction of said incorporation shall extend over and include not only the territory now constituting the town of Selma, but shall be and the same is by this act extended over and shall include the Alabama river opposite to and running by said town.

Powers and  
privileges.

Sec. 2. Be it further enacted, That the government of said city shall be styled "The City Council of Selma," and shall consist of a chief officer to be styled "Mayor of the City of Selma," and five common councilmen, each to be elected by the legal voters of the city; the person receiving the highest number of legal votes for the office of mayor will be elected mayor, and the five persons receiving the highest number of legal votes for councilmen will be elected councilmen; every citizen of said city who would be a legal voter at an election for members of the legislature will be a legal voter at such elections for mayor and councilmen: Provided, He shall have been actually or legally a resident of said city for six months next preceding the election and not otherwise.

Style of gov-  
ernment of  
city.

Sec. 3. Be it further enacted, That the election of mayor and councilmen of said city shall be held annually; but the mayor and councilmen for the time being shall continue in office until their successors are duly chosen and qualified; and after the first election under this charter the time and place of each succeeding election shall be determined by the said city council; and said council shall appoint managers of the elections, to consist of such number of persons as may be deemed expedient; and said city council shall have power to prescribe the mode in which all elections shall be conducted, the mode of returning and counting the votes, the votes to be returned to the existing mayor, and by him laid before the city council shall be the judges of all elections, and shall have full power to determine all matters in relation to all elections, as well as to the mode of conducting elections as to the legality of voters; and in the count shall reject all illegal votes, and count such only as are legal; in the event that two or more

Election of  
officers.



persons should have an equal number of legal votes for the office of mayor, the common councilmen for the time being duly qualified and acting, or a majority of them, shall determine which of said persons shall be mayor; and in case of a tie vote in the election of councilmen, the mayor for the time being and a majority of the councilmen qualified and acting and not interested in the decision to be made, shall determine which of the persons having the tie vote shall have the office; in case a vacancy should occur in the office of mayor, except by the expiration of the term for which last mayor was elected, such vacancy shall be filled by the councilmen; and in case of any vacancy in the office of the councilmen, except by expiration of the term, such vacancy or vacancies shall be filled by the mayor and councilmen who may be acting.

Sec. 4. Be it further enacted, that the first election for mayor and councilmen under this charter shall be held under the direction and supervision of the intendant and council of the town of Selma holding office at the time of the ratification and acceptance of this charter as hereinafter provided for; and said intendant and council shall prescribe the time and place and mode of such first election, and shall be judges thereof; and a certificate shall be made and preserved showing the number of legal votes polled for the different offices, and showing what person received the highest number of legal votes for the office of mayor, and the five persons who received the highest number of legal votes for councilmen; and in case of a tie vote either for mayor or councilmen, the intendant and council of said town, or such of them as may not be interested in the question, shall determine who shall be mayor and who shall be councilmen, as the case may be; all elections for mayor and councilmen under this act shall be by ballot; no person shall be eligible to the office of mayor councilman unless in addition to being a qualified voter for these offices, he shall have resided in said town or city one year next preceding the election.

1st election.

Sec. 5. Be it further enacted, That the mayor and each councilman, before entering on the duties of his office, shall make and subscribe an affidavit that he will faithfully and to the best of his skill and judgment perform the duties of the office of mayor or councilman (as the case may be) without favor or partiality, which affidavit shall be filed in the office of the clerk of said city.

Oath of office.

Sec. 6. Be it further enacted, That the said city council shall have full power and authority to pass all such by-

General powers of board.

laws as may be deemed necessary and proper for its own government not inconsistent with the laws of the state, and the same to alter or repeal at pleasure; and shall have full power and authority to pass and enforce all ordinances deemed necessary and proper to prevent contagious or infectious diseases from being introduced or kept in said city, and to preserve the health of its inhabitants; to prevent and remove all nuisances at the expense of the person causing such nuisance, or upon whose property it may be found; to license, tax, regulate or restrain all shows and theatrical amusements; to prohibit and suppress gaming and gaming-houses and houses of ill-fame within said city, and all things pernicious to the morals and good order of society within said city; to establish night watches and day watches and patrols, and to appoint leaders and captains thereof; to make, alter and ascertain new streets and alleys; to clear and keep in repair the streets and alleys: to regulate the stationing, mooring and anchorage of steam boats and other boats and craft within their jurisdiction; to establish necessary inspections; to erect and regulate markets and the assize of bread; to regulate the sales at auctions and to appoint auctioneers: Provided, The same shall not extend to sales under execution by order of court or by executors or administrators; to erect public scale-houses with proper scales, weights and measures, and to appoint weighers and measurers to weigh and measure in case of disagreement between buyer and seller; to license and regulate wagons, carts and drays, and hacks and carriages running from one part of the said city to another part for hire; and generally to pass such by-laws and ordinances not contrary to the constitution and laws of this state and the United States as said city council shall from time to time deem necessary and proper to carry into effect the true intent and meaning of this act, and the same to enforce, alter and repeal; the said city council shall have power to appoint and remove at pleasure a clerk, treasurer and such number of marshalls and other officers as they may deem necessary and proper, and to require such bond and security as they may deem necessary, and to annex such fees and salaries to their several offices, and to impose such fines for neglect of duty in office, not exceeding one hundred dollars, as they may deem necessary; the said city council are also empowered to lay such fines, not exceeding fifty dollars, for breach or breaches of their by-laws and ordinances as they may deem proper, and to enforce and collect the same in such manner as may be prescribed by ordinance, by execution



against the person or property, or committing to jail, as they may deem necessary or proper; which fines shall be appropriated in such manner as the said city council may prescribe.

Sec. 7. Be it further enacted, That the said city council shall have power and authority annually to assess, levy and collect a tax not exceeding one per centum upon all real estate in said city, a poll tax not exceeding two dollars on each white male inhabitant above twenty-one years of age: Provided, He shall have resided in said city two months immediately preceding the time said tax shall be levied; on each slave over ten and under fifty years of age, not exceeding one dollar; on every free negro or mulatto who shall reside in said city, not exceeding five dollars; a tax on all pleasure carriages, gigs, chairs and sulkies, and saddle buggy or carriage horses, not exceeding one per cent. on the value thereof; on every cart, dray, wagon or other vehicle used for the transportation of goods and commodities from one part of said city to another for hire, a tax not exceeding twenty dollars; on every retailer of spirituous liquors, a tax not less than forty nor more than five hundred dollars; on every vender of goods, wares and merchandise, drugs and medicines, or either of them, a tax not exceeding twenty five dollars per annum; on all goods sold at auction, a tax not exceeding one per cent. on amount of sales, or not exceeding fifty dollars per annum.

May collect  
taxes.

Sec. 8. Be it further enacted, That the said city council or the mayor and each councilman, respectively and alone, shall be and they are hereby vested ex officio with and may exercise in said city all the powers and authority that belong to justices of the peace by the laws of this state; and the said marshall shall be ex officio a constable, and be vested with and exercise all the powers and authority of other constable of this state; and the said mayor, councilmen and marshall shall respectively be liable to the same penalties and restrictions as are imposed by the laws of this state upon the several offices with which they are invested; and the sheriff of the county of Dallas and all ministerial officers shall obey the mandates of the said city council or mayor or councilmen, and truly and faithfully execute the warrants and processes committed to them for service according to the mandate; and it is made the duty of the jailor of said county to receive all persons committed by warrants of the said mayor or councilmen or city council, and the person or persons so committed safely to keep confined in close jail till delivered therefrom by due course of law.

Powers conferred on mayor and councilmen.

Sec. 9. Be it further enacted, That should the election not take place on the day fixed for the annual election of mayor and common councilmen, the corporation shall not for that cause be dissolved, but the incumbents shall remain in office until their successors shall be elected and qualified; and it shall be the duty of the city council to fix some other day as early as convenient within one month thereafter, on which day the said election shall be held.

Election may  
be held.

Sec. 10. Be it further enacted, That the said inhabitants of said city shall be exempted from working on roads and highways out of said city and from patrol duty, but the streets and highways in said city shall be kept in repair by said city; and all male citizens over eighteen and under the age of forty-five years shall be liable to patrol duty and to serve as guards or watch at such times and in sum number as may be prescribed by the said city council.

Exemption of  
inhabitants.

Sec. 11. Be it further enacted, That all property, claims and demands of whatsoever description belonging to the town of Selma shall be vested in the city of Selma; and all debts, contracts and liabilities owing or incurred by said town shall be good and enforced against said city; and the corporation of said town shall and may subsist as long as necessary for enforcing and collecting all claims and dues, or the same may be enforced and collected by said city.

Property trans-  
ferred and vested.

Sec. 12. Be it further enacted, That it shall be the duty of the mayor to preside and keep order at all meetings of the mayor and councilmen; he shall call meetings of the councilmen whenever in his opinion the interest of the said city may require it; he shall keep an office in said city and hear and determine upon all causes for breach of the ordinances and by-laws, and shall receive such fees and salary as may be prescribed by the city council; in the absence or inability of the mayor, the councilmen shall appoint one of their own number mayor pro tempore, who shall discharge the duties of mayor till the mayor returns or his inability is removed; each of the councilmen may also hear and determine causes for breach of the by-laws and ordinances; two councilmen may call a meeting; the mayor and three councilmen or four councilmen shall form a quorum for all business.

Powers of mayor.

Sec. 13. Be it further enacted, That the said city council may cause an assessment of taxes to be made in each and every year by some proper and fit person or persons; the assessment naming the person liable to such taxes when known, and specifying the property when the owner is not

Of assessment  
of taxes.



known, which assessment shall be returned to the mayor to be laid before the city council; and the mayor shall cause at least ten days public notice that assessment has been made and the time when the city council will proceed to hear and determine upon all complaints which may be made against such assessment; and it shall be their duty to correct errors and supply omissions or deficiencies; and when the same has been passed upon by said mayor and councilmen the said assessment, when certified by the mayor, shall have the force and effect of a judgment and execution, and may be collected by levy and sale of property, on giving such notice as is required by law on executions from the circuit court; and where "no property to be found" is returned upon said assessment the mayor may issue a capias ad satisfaciendum, and all sales of property made under or by virtue of such assessment shall convey to the purchaser the same title as if sold by execution from the circuit court; and the collector of said city shall in case of sale of real estate give the purchaser a deed of conveyance, which shall vest in the purchaser the same interest that the person had against whom such tax was assessed at the time of such assessment, and where the owner is not known, the entire equitable and legal interest in such real estate discharged of all liens: Provided, That where a tax is assessed upon property the owners of which are unknown, ninety days' notice of the sale specifying the property and the tax shall be given in some newspaper printed in said city: And provided, That the owner of any real estate sold for taxes shall have the right to redeem by paying treble the amount of the tax, together with all costs and charges, within twelve months from the day of sale: And provided further, That the duties required of said city council, except giving notice and issuing capias ad satisfaciendum, may be devolved upon a board of assessors; and the assessments approved by them shall have the same force and effect as if approved by the mayor and councilmen.

Sec. 14. Be it further enacted, That retailers of spiritous liquors who may procure a license from said city council for Selma shall be exonerated from paying anything to the county of Dallas for the privilege of retailing in the city aforesaid.

Of retailers.

Sec. 15. Be it further enacted, That the said city council of Selma shall have full power and authority to make, ordain and enact such laws and regulations (not contrary to the constitution and laws of this state) as may be deemed necessary in relation to the streets and highways, public

Power over streets.

buildings and powder magazine and every other matter and thing which they may deem necessary for the good order and welfare of said city.

Sec. 16. Be it further enacted, That all the ordinances and regulations of the "intendant and council of the town of Selma" heretofore made and not contrary to the constitution and laws of this state shall be applicable to said "city council of Selma," and shall remain in full force until repealed or altered by said city council of Selma.

Ordinances continued in force.

Sec. 17. Be it further enacted, That the said city council shall be and is hereby empowered in addition to the powers already conferred by this act to pass ordinances or by-laws to regulate or prevent the erection of wooden buildings in such parts of said city as in the opinion of said city council the public good may require, and pass ordinances for the punishment of such as may injure or deface the public buildings or grounds.

Power over the erection of wooden buildings.

Sec. 18. Be it further enacted, That the said city council shall be and they are hereby invested with full power and authority to subscribe for and on behalf of said city, to the capital stock of any railroad or plankroad leading to or from said city, and to pledge the faith and credit of said city for the payment thereof, for such an amount as the said city council may deem best, not exceeding one hundred thousand dollars; and to provide for the payment of such subscriptions the said city council may and they are hereby empowered to issue bonds on the faith and credit and in the name of said city, in such form as the city council may prescribe, and for an amount not exceeding such subscriptions, bearing interest not exceeding the rate of eight per centum per annum; and for the payment of such bonds and the interest, may mortgage or pledge in such other manner as the city council may deem best all the property owned by said city real or personal, and may also pledge such amount of taxes as the city council may think proper and have the power to levy under this act of incorporation.

May subscribe for stock in railroad.

May issue bonds.

Sec. 19. Be it further enacted, That said city council shall be and are hereby invested with power and authority to close any street or part of any street which in the judgment of the council may be closed without detriment or inconvenience to the public, and may make such disposition of such streets or parts of streets so closed as the judgment of the council may be best and most advantageous for the interest of the city; and the said city council is also invested with the same power and authority and dis-

May close streets.



cretion in relation to the disposition of all property real and personal belonging to the said city, or which may hereafter be owned by said city; all property and rights of whatsoever description belonging to the said town of Selma, or which may belong to the said town at the time of the ratification of this act, as hereinafter provided, shall be and the same is by this act vested in the said city.

Sec. 20. Be it further enacted, That this act shall not go into effect or be in force until accepted and ratified by a majority of all the legal voters of said town of Selma, but whenever so ratified shall have full force and effect according to its provisions; to ascertain the sense of the legal voters of said town, the intendant and council of said town may cause a vote to be taken whenever and in such manner as the said intendant and council may prescribe: Provided, That at least thirty days' notice of the time and place when and where said vote will be taken shall be given by said intendant by advertisement published in one or more newspapers in said town; and every citizen of said town who would be competent to vote at an election for members of the legislature shall have the privilege of casting his vote in ascertaining the sense of the inhabitants of said town as to the ratification and acceptance of this charter; and if, when the vote shall have been taken after the giving of this notice by advertisement as aforesaid, it shall appear that a majority of the legal voters of said town have voted for the acceptance and ratification of this charter the same shall then and from thenceforth be in full force.

This act must  
be ratified by  
the people.

Sec. 21. And be it further enacted, That all laws and parts of laws which may contravene any of the provisions of this act shall be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.

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[No. 187.]

AN ACT

To incorporate the Town of Jefferson, in Marengo County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of Jefferson, in Marengo county, be and the same is hereby incorporated; and the boundary of said corporation shall be one mile square and so defined as to make the centre of the town the centre of the corporation.

Incorporated.  
Boundaries.

Sec. 2. Be it further enacted, That an election shall be held on the first Monday in March next, and annually thereafter, at the store of John Besteder, the polls to be opened at eleven o'clock, and closed at four o'clock, P. M., for the

Election for  
officers.

purpose of electing by ballot one intendant and five councillors, inhabitants of said town, who shall serve for the term of one year after they shall have been elected; the first election shall be managed by John Pesteder, Galedb Williams, Walter E. Garrett, James M. Hildreth and L. B. Bush, or any two of them; and all subsequent elections shall be managed by two of the councillors to be appointed by the board for that purpose; and if the said board should fail to hold an election according to the terms of this act, then it shall be lawful for five freeholders in said town to hold said election; and the said intendant and councillors within ten days after their election in each year shall meet together, and before entering upon the duties of their office, shall take and subscribe the following oath before any justice of the peace for said county, viz: "I do solemnly swear (or affirm as the case may be) that I will well and truly and to the best of my knowledge and ability execute and discharge the duties of intendant (for intendant) councillor (for councillors) of the town of Jefferson, without fear, favor or partiality: So help me God."

Sec. 3. Be it further enacted, That it shall be the duty of the intendant to preside and keep order at all the meetings of the councillors, and in his absence any other member may be called to the chair; and the said intendant and council shall be and they are hereby constituted a body corporate by the name and style of "The Intendant and Council of the Town of Jefferson;" and by that name they and their successors shall be capable in law of suing and being sued in all manner of suits, either in law or equity; also to have and keep a common seal, to break, alter or amend the same at pleasure, and in general to do all acts which are incident to bodies corporate, and to purchase, hold and dispose of for the benefit of said town real, personal and mixed property to the amount of five thousand dollars.

Sec. 4. Be it further enacted, That any elector of said town shall be eligible to the office of intendant or councillor; and should the said intendant or councillor or councillors remove from the said town or be absent for three months at any time without the consent of the board of councillors, his or their office shall be vacated; and it shall be the duty of the remaining part of the board forthwith to supply the vacancy or vacancies so occurring, or in the event of a vacancy by death, resignation or otherwise, it shall be the duty of the board forthwith to fill said vacancy.

Sec. 5. Be it further enacted, That all white free male citizens of the age of twenty-one years or upwards who

Duties and powers of board.

Corporate name and style.

Powers.

Eligibility for office.

Eligibility to vote.

shall have resided within the limits of said town three months immediately preceding an election for intendant and councillors, or either of them, shall be qualified voters at said election.

Sec. 6. Be it further enacted, That the intendant and councillors shall have power to adjourn their meetings from time to time: Provided, That the intendant or two of the councillors may at any time, by written notice, call a meeting of the board; they shall keep a journal of all their proceedings, and record all their official acts and doings; and all deliberations of said intendant and council shall be public.

Powers of  
board.

Sec. 7. Be it further enacted, That the intendant of said town shall ex officio be a justice of the peace within the limits of the same.

Intendant.

Sec. 8. Be it further enacted, That the said intendant and councillors shall have authority to enact such ordinances and by-laws as they may deem necessary for the good order and government of said town of Jefferson; to prevent and remove nuisances of every description, and which may extend to the preservation of health; to establish patrols or town guards; to regulate the railing and guttering of sidewalk; to protect by adequate penalties shade and ornamental trees in said town; to provide for licensing and regulating such retailers of liquors as they may believe the interest of said town may require: Provided, They shall have first obtained a license from the county or probate court to license; to tax and restrain at pleasure theatrical amusements, shows and musicians of all kinds whatsoever within said corporation; to clear and keep in repair the streets of said town; to restrain and prohibit all nightly and disorderly meetings of slaves, free negroes or mulattoes, and all other knavish or disorderly persons; to restrain and prevent all white persons and free persons of color and slaves from trading with slaves without a written permit, such as the said intendant and council may prescribe, from his, her or their owner or owners, overseer or agent; and in general to pass such ordinances and by-laws not contrary to the constitution of this state and the laws thereof as the said intendant and council shall from time to time deem expedient and necessary to carry into effect the intent and meaning of this act, and at the same time to put in execution and to make and alter the same as shall be deemed expedient.

General corpo-  
rate powers.

Sec. 9. Be it further enacted, That said intendant and council shall appoint a clerk, a treasurer, assessor of taxes and constable, and such other subordinate officers as they may deem expedient and necessary, and require such secu-

May appoint  
officers.



rity for the discharge of their duties as they may deem adequate; the said intendant and council are hereby also empowered to impose appropriate fines and forfeitures and penalties for the breach of their ordinances and by-laws, recoverable with cost in the name of the intendant and council of the town of Jefferson, for the use of the town, before the intendant thereof or two of the councillors, for which suit may be commenced by warrant returnable forthwith: Provided, That all ordinances and by-laws shall be subject to repeal by the legislature of this state, and that nothing herein contained shall prevent appeals to the circuit court in the same manner and under the same rules and regulations as appeals are taken from justices of the peace.

Sec. 10. Be it further enacted, That said intendant and council shall have power to levy and collect a tax on real estate, not to exceed twenty-five cents on every hundred dollars worth, and on stock in trade and all personal property kept within the limits of the corporation of the said town of Jefferson, not to exceed twenty-five cents on every hundred dollars worth: Provided, The tax on real and personal estate be laid in proportion to the value thereof according to an assessment and valuation thereof given by the owner or owners, his, her, or their agent, or by the assessor appointed by the intendant and council; and should any person think that his or her property is assessed too high, he or she shall have a right to complain to the intendant or council, who shall reduce the same to its proper value, and their decision shall be final.

May collect  
tax.

Sec. 11. And be it further enacted, That the intendant and council of said town of Jefferson shall have the streets of the same worked on and kept in good repair and shall require and regulate the working on the same, not exceeding ten days in each year, and may exempt at discretion from working on the same all persons they may think proper; and all persons living within the corporation liable by law to work on roads and highways, by paying an additional poll tax not exceeding five dollars per head, annually, on each one so liable to work, for the use of said town, shall be exempt from working on the same: Provided, That all slaves in said corporation who are liable to work shall not be taxed as personal property.

Power over  
streets, alleys,  
&c.

Approved, February 4, 1852.



[No. 188.]

## AN ACT

To incorporate the town of North Port, in Tuscaloosa county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of North Port, in the county of Tuscaloosa, be and the same is hereby incorporated; and the corporate limits of said town shall be as follows, to-wit: commencing at low water mark on the Warrior river, three hundred and fifteen yards west of the North Port wharf, running thence north, parallel with main street to the north-west corner of Andrew Hodges' lot; thence east to Crabb's road; thence down Crabb's road to the head of the ravine, and thence down said ravine to the river.

Incorporated.

Limits.

Sec. 2. Be it further enacted, That an election shall be held in the town of North Port, on the first Monday of March, 1852, and on the same day biennially thereafter, to commence at one o'clock, P. M., and close at four o'clock, P. M., for the purpose of electing an intendant and four councilmen, inhabitants of said town, who shall serve for the term of two years, and until their successors in office are duly elected and qualified; which election shall be held by some justice of the peace and two freeholders of said town; and all subsequent elections shall be conducted and held by the intendant and any two councilmen; and in the absence of the intendant, by a majority of the councilmen; all persons in the corporate limits being entitled to vote who are qualified to vote for members of the general assembly of this state.

Election for officers.

Sec. 3. Be it further enacted, That the intendant and councilmen, together with the marshall and clerk, which they are hereby empowered to appoint, shall, severally, before they enter on the discharge of their duties, subscribe and take the following oath, to-wit: "I, A. B., (as the case may be, intendant, councilman, marshall or clerk,) do solemnly swear that I will to the best of my skill and ability discharge all the duties incumbent on me: So help me God;" a certificate of which oath shall be filed with records of the board. And it shall be the duty of the intendant to preside at all meetings of the councilmen and preserve order and decorum; and in his absence or incapacity, any councilman may be called to the chair; and the said intendant and councilmen are hereby declared and constituted a body politic and corporate by the name and style of "The Intendant and Council of the town of North Port;" by which name they and their successors in office

Oath of office.

Corporate name, style and powers.

shall be capable in law of suing and being sued, of pleading and being impleaded in all manner of suits, either in law or equity; and they shall have full power to keep a common seal, and the same to break, alter and amend at pleasure; and in general to do and perform all acts which are usually incident to bodies corporate; to purchase, hold, use and dispose of, for the benefit of said town, real, personal or mixed property to the value of five thousand dollars and no larger amount.

Sec. 4. Be it further enacted, That the intendant and councilmen, or a majority of them, are hereby invested with full power to keep open and in good repair the streets and alleys of said town; to fine for assaults and batteries, in any sum not exceeding twenty-five dollars, and the same to collect; to prevent and remove nuisances; to suppress gaming of every description; to prohibit the sale of ardent spirits in less quantities than a quart, except for mechanical or medicinal purposes, within said corporation; to establish night watches and patrols, and punish for neglect of patrol duty; to restrain or tax shows or exhibitions in said town; and may impose a fine, not exceeding one hundred dollars, or imprisonment in the guard-house, not exceeding ten days, for every violation of the by-laws, for the purpose of carrying into effect the powers herein granted, and all other powers necessary for the good government of said town and not inconsistent with the laws of this state.

Powers over  
streets, alleys,  
&c.

Sec. 5. Be it further enacted, That the intendant and councilmen shall have power to levy a tax on the inhabitants and property of said town, to raise money for the purpose of properly governing and managing the affairs of said corporation; and that they shall, as soon as convenient after their election, elect by joint ballot a clerk, treasurer and town marshall for said town; and it shall be the duty of said clerk to issue all executions for fines and taxes which may be necessary, signing the same and delivering the same to the marshall, whose duty it shall be to collect and pay over the same to the treasurer, which last named officer shall give bond and sufficient security to the intendant and councilmen before he enters upon the duties of his office.

To levy tax.

Sec. 6. Be it further enacted, That the citizens of said corporation shall be exempt from road duty other than within the corporate limits before described.

Exemption.

Sec. 7. Be it further enacted, That the intendant and councilmen shall have power to remove from office the clerk, treasurer and marshall upon satisfactory reasons and

Officers may  
be removed.



appoint others; and shall fix the salaries of such officers as in their judgments they may deem meet; and if by them thought advisable, taking bonds from the clerk and marshal for the faithful performance of duty.

Sec. 3. And be it further enacted, That all prior laws by which the town of North Port or North Tuscaloosa was incorporated be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.

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[No. 189.]

AN ACT

To incorporate the town of Frankfort, in the county of Franklin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town heretofore laid off at the court house in the county of Franklin be and the same is hereby incorporated, and that it shall hereafter be known and called by the name of Frankfort; and there shall be elected, on the first Monday in April next, and on the first Monday in April in each and every year thereafter, one intendant and three councilmen for said town.

Name.

Sec. 2. Be it further enacted, That the name and style of said corporation shall be "The Intendant and Councilmen of the Town of Frankfort;" and by that name they may sue and be sued, plead and be impleaded, may take and hold property, both real and personal, and may sell and dispose of the same whenever they may think it necessary to promote the interest and welfare of said town in such manner not inconsistent with the laws of this state.

Corporate style and powers.

Sec. 3. Be it further enacted, That James T. Chisum, John Miller, Charles Somble, Claiborne W. Townsend and Partain Burgess, or a majority of them, be and they are hereby authorised to hold an election in said town, on the first Monday in April next, for one intendant and three councilmen for said town, at which election and at every subsequent election all of the citizens of said town who are qualified to vote for members of the general assembly of this state may vote; and in case the persons herein named, or a majority of them, shall fail or refuse to hold said election, then any other five citizens of said town may hold the same at such time thereafter as may suit their convenience: Provided, That the citizens of said town shall be duly notified by an advertisement put up at the court house door in said town of the time of said election.

Election to be held.

Sec. 4. Be it further enacted, That should any vacancy occur in said board of officers by death, resignation or otherwise, it shall be the duty of the remaining members of the board to fill said vacancy until the annual election held thereafter; and all annual elections shall be ordered and held by the intendant and councilmen last in office, or a majority of them.

Vacancies.

Sec. 5. Be it further enacted, That the boundaries of said town shall embrace all the lots which have heretofore been laid off in said town, and may be extended to embrace any other lots adjoining said town which may hereafter be laid off, by the agreement of the intendant and council and the person or persons owning said lots.

Boundaries.

Sec. 6. Be it further enacted, That the intendant and council, or a majority of them, are hereby vested with full power to keep open the streets and alleys of said town, to preserve the peace and good order of the same, to fine for assaults and batteries, and to collect the same, to keep the streets in repair, to pass all by-laws for the purpose of carrying the powers herein granted into effect and all other powers necessary for the good government of said town not inconsistent with the laws of this state.

Powers of board.

Sec. 7. Be it further enacted, That the intendant and council aforesaid shall have power to levy from time to time such taxes upon the inhabitants and property of said town as may be necessary to pay the expenses incident to the government and management of the affairs of said town.

May levy tax.

Sec. 8. Be it further enacted, That said intendant and council shall, on the day succeeding such election, or so soon thereafter as may be convenient, appoint a clerk, a treasurer and a town marshall for said town; and it shall be the duty of the clerk to keep a true and perfect record of all the proceedings of said intendant and council, to issue all executions for fines and taxes that may be necessary, which he shall sign and deliver to the marshall, whose duty it shall be to collect and pay over the same to the treasurer.

Officers to be elected.

Sec. 9. Be it further enacted, That said intendant and council shall have power to remove from office the treasurer, marshall and clerk of said town upon satisfactory reasons, and to appoint others; and they shall fix the salaries or payment to which each of said officers shall be entitled, and shall take the bonds of said officers for the faithful performance of the duties of their respective offices in such amounts as they may deem sufficient, payable to said intendant and council and their successors in office.

Powers of board.

Sec. 10. Be it further enacted, That a failure to hold



any election as directed by this act shall not have the effect of vitiating or rendering inoperative the provisions of this act.

Sec. 11. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Approved, February 9, 1852.

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[No. 190.]

AN ACT

To incorporate the town of McKinley, in Marengo county.

Sec. 1. Be it enacted by the Senate and house of Representatives of the State of Alabama in General Assembly convened, That the town of McKinley, in Marengo county, be and the same is hereby incorporated; and the boundary of said corporation shall be one mile square, and shall be so laid off and defined as to make the public well the centre thereof.

Incorporated.  
Boundaries.

Sec. 2. Be it further enacted, That an election shall be held, on the first Monday in March next, at the post-office in said town, beginning at 11 o'clock, A. M., and closing at 3 o'clock, P. M., for the purpose of electing by ballot one intendant, five councillors, inhabitants of said town, and annually thereafter, under such rules and regulations as the intendant and council may hereafter prescribe, who shall serve for the term of one year after they shall have been elected. The first election shall be managed by Enos Rodgers, F. P. Daniel, M. H. Smith, Daniel M. A. Densby and S. T. Newton, or any two of them, and all subsequent elections shall take place on the first Monday of March in each and every year, and shall be held by two of the councillors appointed by the board for that purpose; and if the said board shall fail to hold an election according to the terms of this act, then it shall be lawful for the freeholders of said town, after giving ten days' public notice by advertisement, to hold said election; and the intendant and councillors shall, within ten days after their election, in each year meet together, and before entering upon the discharge of their duties, shall take and subscribe the following oath before any justice of the peace for said county, viz: "I do solemnly swear (or affirm as the case may be) that I will well and truly and to the best of my knowledge and belief execute and discharge the duties of intendant (for intendant) councillor (for councillor) of the town of McKinley without fear, favor or affection: So help me God."

Election.

Sec. 3. Be it further enacted, That it shall be the duty of the intendant to preside and keep order at all the meetings of the councillors, and in his absence any other member of the board may be called to the chair; and the said intendant and councillors shall be and they are hereby constituted a body corporate by the name and style of "The Intendant and Council of the Town of McKinley;" and by that name they and their successors shall be capable in law of suing and being sued in all manner of suits either in law or equity; also to have and keep a common seal, to break, alter or amend at pleasure, and in general to do all acts which are incident to bodies corporate, and to purchase, hold and dispose of, for the benefit of said town, real, personal and mixed property to the amount of five thousand dollars.

Duties and powers of board.

Sec. 4. Be it further enacted, That any elector of said town shall be eligible to the office of intendant or councillor; and should the said intendant, councillor or councillors remove from said town, or be absent for three months at any time without the consent of the board of councillors, his or their office shall be vacated, and it shall be the duty of the remaining part of the board forthwith to supply the vacancy so accruing; or in the event of a vacancy by death, resignation or otherwise, it shall be the duty of the board to fill said vacancy.

Eligibility for office.

Sec. 5. Be it further enacted, That all white free male citizens of the age of twenty-one years or upwards who shall have resided within the limits of said town three months immediately preceding an election for intendant and councillors shall be qualified to vote at said election.

Eligibility of voters.

Sec. 6. Be it further enacted, That the intendant and council shall have power to adjourn their meetings from time to time: Provided, That the intendant or two of the councillors may at any time by written notice call a meeting of the board; they shall keep a journal of all their proceedings and record all their official acts and doings, and all deliberations of said intendant and council shall be public.

Powers of board.

Sec. 7. Be it further enacted, That the intendant of said town shall ex officio be a justice of the peace within the limits of the same.

Intendant.

Sec. 8. Be it further enacted, That the said intendant and councillors shall have power to enact such ordinances and by-laws as they may deem necessary for the good order and government of said town of McKinley; to prevent and remove nuisances of every description, and which may extend to the preservation of health; to establish patrols or

General corporate powers of board.

town guards; to regulate the railing and guttering of side walks; to protect by adequate penalties shade and ornamental trees in said town; to provide for licensing and regulating such retailers of liquor as they may believe the interest of said town may require: Provided, they shall first obtain a license from the county or probate court to license; tax and restrain at pleasure theatrical amusements, shows and musicians of all kinds whatsoever within said corporation; to clear and keep in repair the streets of said town; to restrain and prohibit all nightly and disorderly meetings of slaves, free negroes or mulattoes, and all other knavish and disorderly persons; to restrain and prevent all white persons, free persons of color and slaves from trading with slaves without a written permit, such as the intendant and council may prescribe, from him or her or their owner or owners, overseer or agent; and in general to pass such ordinances and by-laws not contrary to the constitution of this state and the laws thereof as the said intendant and council shall from time to time deem expedient and necessary to carry into effect the intent and meaning of this act, and at the same time to put in execution and to revoke and alter the same as shall be deemed expedient.

Sec. 9. Be it further enacted, That said intendant and council shall appoint a clerk, a treasurer, assessor and collector of taxes, and constable, and such other subordinate officers as they may deem expedient and necessary, and require such security for the discharge of their duties as they may deem adequate; and said intendant and council are hereby also empowered to impose appropriate fines, forfeitures and penalties for a breach of their ordinances and by-laws, recoverable with cost in the name of said corporation, for the use of the same, before the intendant thereof or two of the councillors, for which suit may be commenced by warrant returnable forthwith.

Officers to be appointed.

Sec. 10. Be it further enacted, That said intendant and council shall have power to levy and collect a tax on real estate, not to exceed twenty-five cents on every hundred dollars worth, and on stock in trade and all personal property kept within the limits of said corporation, not to exceed twenty-five cents on every hundred dollars worth: Provided, The tax on real and personal estate be laid in proportion to the value thereof according to an assessment and valuation thereof given by the owner or owners, his, her or their agent, or by the assessor appointed by the board for that purpose; and should any person think that his or her property is assessed too high, he or she shall have a right to

Tax shall be levied and collected.



complain to the intendant and council, whose duty it shall be to reduce the same to its proper value, and their decision shall be final.

Sec. 11. And be it further enacted, That the intendant and council of said town of McKinley shall have the streets of the same worked on and kept in good repair, and shall require and regulate the working on the same, not exceeding ten days in each year to each hand liable by law to work on public roads; to exempt at discretion from working on the same all persons they may think proper; and all persons being within the corporate limits of said town that are liable by law to work on roads or highways they may exempt from working by paying a poll tax annually of not exceeding five dollars per head on each hand so liable for the use of said town.

Approved, February 9, 1852.

Power over  
streets, &c.

[No. 191.]

# AN ACT

To incorporate the town of Oxford, in the county of Benton.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of Oxford, in the county of Benton, be and the same is hereby incorporated with all the privileges and immunities belonging to incorporated towns; and the corporate limits of said town shall include one mile square, the centre of which shall be the male academy in said town, and the parallel sides of said mile square shall each be by a perpendicular line one-half mile from the said male academy.

Incorporated.

Limits.

Sec. 2. Be it further enacted, That the name and style of said corporation shall be "The Intendant and Councilmen of the Town of Oxford;" and by that name may sue and be sued, plead and be impleaded, and may hold property both real and personal, not exceeding five thousand dollars in cash valuation, and the same sell and dispose of in such manner as may be most beneficial to said town and not inconsistent with the laws of the land.

Name and style.

Powers.

Sec. 3. Be it further enacted, That E. S. Simmons, Edmund F. Gains, John A. Turnipseed, I. C. Williams and Woodson Seay, or a majority of them, be and they are hereby authorised to hold an election in said town on the first Saturday in March next, or within thirty days there-

An election  
shall be held.



after, for an intendant and three councilmen, who shall hold their office for and during the term of one year; and the election after the first election for the said intendant and councilmen shall be held each and every year on the first Saturday in March; and of all said elections ten days notice shall be given by written advertisement posted up at least at two public places in said town.

Sec. 4. Be it further enacted, That at the said elections all persons shall vote who are qualified to vote for members of the general assembly of this state, and who reside in the corporate limits of said town; should any vacancies at any time occur in the board of officers of said town, it shall be the duty of the remaining members of said board to supply such vacancies by appointment.

Voters.

Sec. 5. Be it further enacted, That the said intendant and councilmen shall enact such laws not repugnant to the constitution and laws of the United States or of this state as may be necessary for the suppression of nuisances, for the reaping and keeping in good order the streets thereof, and for the better regulation of the police in said town, and assess fines to enforce the ordinances, not exceeding fifty dollars in any case.

Powers of board.

Sec. 6. Be it further enacted, That the said corporation shall be authorized to raise the revenue necessary to carry into effect the objects of the corporation by laying a tax upon the persons and property within said incorporation.

May levy tax.

Sec. 7. Be it further enacted, That at the same time and in the same manner with the intendant and councilmen a constable shall be elected, who shall enter into bond with at least two good securities.

Constable to be elected.

Sec. 8. And be it further enacted, That the corporate authorities of said town of Oxford shall be and they are hereby authorized to levy such amount of annual tax upon the sale and retail of ardent spirits within the corporate limits of said corporation, not to exceed five hundred dollars upon any one establishment in any one year.

Tax upon the sale of ardent spirits.

Approved, February 7, 1852.

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[No. 192.]

AN ACT

To incorporate the town of Kaysville, in the county of Madison.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of Kaysville, in the county of

Madison, be and the same is hereby incorporated; and the corporate limits of said town shall embrace an area of land one-half a mile square, the marginal lines of which shall be equidistant east, west, north and south from the south-west corner of the sixteenth section, township three, range two, east of Rose's meridian.

Corporate  
limits.

Sec. 2. Be it further enacted, That an election shall be held in the town of Maysville, on the first Saturday in January, 1852, and on the same day annually thereafter, to commence at 11 o'clock, A. M., and close at 2 o'clock, P. M., for the purpose of electing five councillors, inhabitants of said town, who shall serve for the term of one year, and until their successors in office are duly elected and qualified, which election shall be held by some justice of the peace and two freeholders of said town; and all subsequent elections shall be conducted and held by the intendant and any two councilmen, and in the absence of the intendant by a majority of the councilmen; all persons in the corporate limits being entitled to vote who are qualified to vote for members of the general assembly of this state; and on the day after the election the councilmen shall meet and elect by ballot one of their number as intendant, who shall in said town ex officio be a justice of the peace within the limits of the same.

Election for  
corporate offi-  
cers.

Sec. 3. Be it further enacted, That the intendant and councilmen, together with the constable and clerk, which they are hereby empowered to appoint, shall, severally, before they enter on the discharge of their duties, subscribe and take the following oath, to-wit: "I, A. B., (as the case may be, intendant, councilman, clerk, or constable,) do solemnly swear that I will to the best of my skill and ability discharge all the duties incumbent on me: So help me God;" a certificate of which oath shall be filed with the records of the board. And it shall be the duty of the intendant to preside at all meetings of the councilmen and preserve order and decorum, and in his absence or incapacity, any councilman may be called to the chair; and the said intendant and councilmen are hereby declared and constituted a body politic and corporate by the name and style of "The Intendant and Council of the town of Maysville;" by which name they and their successors in office shall be capable in law of suing and being sued, of pleading and being impleaded in all manner of suits either in law or equity, and in general to do and perform all acts which are usually incident to bodies corporate; to purchase, hold, use and dispose of, for the benefit of said town, real, personal or mixed property to the value of five thousand dollars.

Oath of officers.

Declared a  
body corporate.  
Name and style.

Powers.

Sec. 4. Be it further enacted, That the intendant and councilmen, or a majority of them are hereby invested with full power to keep open and in good repair the streets and alleys of said town; to preserve the peace and good order of the same; to fine for assaults and battery in any sum not exceeding twenty dollars, and the same to collect; to prevent and remove nuisances; to suppress gaming of every description; to establish night watches and patrols, and punish for neglect of patrol duty; to restrain or tax shows or exhibitions and the sale of spiritous liquors in said town; and may impose a fine not exceeding fifty dollars for every violation of the by-laws for the purpose of carrying into effect the powers herein granted and all other powers necessary for the good government of said town not inconsistent with the laws of this state.

Powers over  
streets, alleys,  
&c.

Sec. 5. Be it further enacted, That the intendant and councilmen shall have power to levy a tax on the inhabitants and property of said town, to raise money for the purpose of properly governing and managing the affairs of said corporation; and that they shall as soon as convenient after their election elect by joint ballot a clerk, treasurer and constable for said town, and it shall be the duty of said clerk to issue all executions for fines and taxes which may be necessary, signing the same and delivering the same to the constable, whose duty it shall be to collect and pay over the same to the treasurer, which last named officer shall give bond and sufficient security to the intendant and councilmen before he enters upon the duties of his office.

May levy tax.

Sec. 6. Be it further enacted, That the citizens of said corporation shall be exempt from road duty other than the corporate limits before described.

Exemptions.

Sec. 7. And be it further enacted, That the intendant and councilmen shall have power to remove from office the clerk, treasurer and constable upon satisfactory reasons, and appoint others, and shall fix the salaries of such officers as in their judgment they may deem sufficient, and if by them thought advisable taking bonds from the clerk and constable for the faithful performance of duty.

May remove  
from office.

Approved, January 30, 1852.



[No. 193.]

## AN ACT

To incorporate the town of Daleville and the Daleville  
Masonic Academy, in Dale County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Elisha H. Timmens, Hardy W. P. Price, Bryant A. Cummings, John A. Austin, John Kelly, Robert E. Fields and Absalom Miller, their associates and successors, be and they are hereby incorporated a body corporate and politic in the name and style of "The Daleville Masonic Academy;" and as such may sue and be sued, plead and be impleaded, answer and be answered unto in all manner of suits or actions, both in law or equity; may receive and hold property, real and personal or mixed, for the sole use and benefit of the said academy; the same to alien or dispose of at pleasure; have and use a common seal, and make all such relas and regulations and by-laws for the government and protection of said town of Daleville and said academy as they, or a majority of them, may deem necessary, the same not being repugnant to the constitution and laws of the United States or of t is state.

Corporators.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the said trustees shall have full power to fill any vacancy in their body occurring in any manner, and to employ a teacher or teachers for said academy, fix the rates of tuition, and to make such provision for the conferring certificates or other evidence of scholarship as to them may seem proper, and generally to do and perform all acts incident to chartered institutions of learning in this state.

May fill vacancies.

Sec. 3. Be it further enacted, That said trustees shall also have power to appoint an intendant and marshall with full powers to execute all laws and regulations by them to be made and posted up in the town of Daleville, for the better government and protection of said town and academy, subject to the restrictions in section two of this act.

Further powers.

Sec. 4. And be it further enacted, That all laws and parts of laws in conflict with the provisions, powers and privileges of this act be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.



[No. 194.]

## AN ACT

To authorise the Mayor and Aldermen of the City of Tuscaloosa to borrow money.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the mayor and aldermen of the city of Tuscaloosa be and they are hereby authorised, for and on behalf of the city of Tuscaloosa, to borrow money, not exceeding the sum of **twenty** thousand dollars, for the purpose of improving said city or of making a plankroad leading to or from the same; and for the security and payment thereof, to make and execute such bonds and other evidences of the loan aforesaid or other assurances as may be necessary to effect such loan; and for the security and re-payment thereof, to pledge the present and future revenue of the said city.

May borrow money.

Sec. 2. And be it further enacted, That any contracts or agreements heretofore made by the mayor and aldermen of the city aforesaid, for the purpose of borrowing money to make the improvements recited in the preceding section, be and the same are hereby ratified and confirmed.

Proceedings ratified.

Approved, December 4, 1851.

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[No. 195.]

## AN ACT

To amend the city charter of Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the powers and duties of the city council of the city of Montgomery, now by law vested in and exercised by the board of mayor and aldermen, shall hereafter be vested in and exercised by two separate boards, one to be called the board of mayor and aldermen and the other the board of common council; the board of mayor and aldermen shall be constituted as now required by law; the board of common council shall be composed of six councilmen, of which two shall be elected in each ward by the qualified electors at the same time of the election of mayor and aldermen, and shall hold their office for one year and until their successors are elected and qualified; the election of councillors shall be conducted in the same manner as the election aldermen as now provided by law; the board of common council shall judge of the election and qualifi-

Two separate boards established.

cation of its members; and if a vacancy occur in the office of councillor by death, resignation, removal or otherwise, it shall be filled by the board of common council.

Sec. 2. Be it further enacted, That no person shall be eligible to the office of mayor, alderman or common council unless in addition to the qualification of elector he shall have resided in said city at least one year next preceding the election, and be a freeholder or householder in said city; and an inchoate title, one subject to be divested by the payment of money or one which does not entitle the party to immediate possession, shall not be considered a freeholder; and no one shall be considered a householder who is not the head of a white family, occupying and controlling a dwelling; and the mayor, aldermen and common councilmen before they enter upon the duties of their office respectively, in addition to the affidavit now required by law, shall swear or affirm that they will not during their continuance in office be directly or indirectly engaged in any contract or dealings with said corporation, or sell to, or for, or furnish for, or buy, or receive from it any goods, effects, estate, interest, matter or thing whatsoever.

Eligibility for office of mayor, aldermen and common council.

Sec. 3. Be it further enacted, That the board of common council shall elect one of their own number to preside over the deliberations, and may also appoint a clerk, and by a majority of the whole number elected displace them; the clerk of the city council shall be clerk of the board of aldermen.

President of council to be elected.

Sec. 4. Be it further enacted, That either board may originate any measures, but no ordinance, resolution or proposition shall have any force or effect until it shall have been adopted in each separate board, having been distinctly read and free discussion allowed in each, and first engrossed in the board in which it originated; and after any measure has been adopted in the board ten days shall elapse before it shall be adopted in the other board, except in matters of account previously authorized by law or ordinance; and also in case of emergency a measure may be adopted by three-fourths of the whole number in each board voting by yeas and noes in favor thereof, and then the yeas and noes shall be entered on the journals of each board.

Regulation as to business between the two boards.

Sec. 5. Be it further enacted, That no member of either board during the time which he may have been elected, shall make any contract or have any dealings with said corporation, or sell or contract to sell to, or buy from or contract to buy from said corporation any goods, effects, commodity, estate, or thing whatsoever; nor shall any mem-

Restriction on members of board.



ber vote or attempt to influence the vote on any question in which he or any company of which he is a member or is personally interested, or which may specially benefit his property or the property of any company of which he is a member, or of which he may be in possession more than others, or on the alteration or improvement or grading to be made on any street or public property within three hundred yards of his residence or property, and no one not qualified to vote, can be counted in forming a quorum.

Sec. 6. Be it further enacted, that each board shall keep a journal of its proceedings, which shall always be open to the inspection of every citizen of said city, and at the request of any member cause the yeas and nays to be entered on the same; each member shall have the right to protest and have his protest entered upon the journals; the doors of each board shall always be opened except when engaged in the discussion of the qualifications of persons proposed for an office or employment.

Each board shall keep journal.

Sec. 7. Be it further enacted, That the members of the two boards shall have full power to meet in convention and to elect or appoint in such convention, a treasurer and deputy marshall of said city, and all other officers and agents which shall be deemed necessary by each separate board for the purposes of said corporation; and in such convention to remove and displace such deputy marshall, treasurer, officers, agents, as may be decreed proper; but no measure shall be acted on in any such convention except such as may have been previously designated in each board and for which they shall have convened; in such joint convention the mayor, or person exercising said officer shall preside.

Joint convention of board to elect officers.

Sec. 8. Be it further enacted, That the assessment of taxes shall be made, returned and passed upon by the board of mayor and aldermen as now prescribed by law; and when so passed upon shall have the force and effect as already prescribed by law.

Assessment of taxes.

Sec. 9. And be it further enacted, That the said city council shall have authority to pass all necessary ordinances in relation to the conduct of slaves and free negroes, to keep them under proper control and subordination, and to prevent slaves from trading, and to prevent and regulate their going at large.

Power of board.

Approved, January 17, 1852.



[No. 156.]

AN ACT

Supplemental to "an act to amend the city charter of Montgomery,"  
approved January 17, 1852.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the mayor and aldermen and common councilmen of the city of Montgomery, before they enter upon the duties of their office respectively, in addition to the oath prescribed for civil officers of the state, shall swear or affirm that they will endeavor to prevent and punish all tumultuous and riotous assemblies, assaults and batteries, gaming, keeping gaming houses, and all other public offenses and violations of the laws of the state and ordinances of said city; that they will not, during their continuance in office, vote for the ratification or confirmation of any contract with said corporation made directly or indirectly by them or by any company of which they are members; and that they will faithfully, to the best of their skill and judgment, execute their office without favor or partiality; which said oath or affirmation shall be filed in the office of the clerk of said city; and no oath or affirmation other than that herein set forth shall be required of said mayor and aldermen and common councilmen before they enter upon the duties of their office respectively; and the present mayor and aldermen and common councilmen of said city shall upon the passage of this act make the oath or affirmation required by this section, and shall be governed thereby and by none other during the term of office for which they have been respectively elected.

Oath to be taken by corporate officers.

Sec. 2. Be it further enacted, That nothing contained in the act to which this is a supplement shall be so construed as to prevent either of the boards of aldermen or councilmen from purchasing of or from any member of either of said boards, any tool or other article or articles of merchandise that may be necessary or expedient to carry on the improvements of the city.

Reservation and explanation.

Sec. 3. Be it further enacted, That no member of either board shall be restricted in voting upon alterations or improvements to be made upon any public street or public property in said city in consequence of the proximity of the same or otherwise to his residence or property: Provided, Such alterations or improvements be for the public benefit and are not within one hundred yards of his residence or property.

Powers of members in voting.

Sec. 4. Be it further enacted, That the assessment of



taxes shall be made, returned and passed upon by both boards, and not by the board of mayor and aldermen separately; and when so passed upon shall have the force and effect as already prescribed by law.

Assessment of taxes.

Sec. 5. Be it further enacted, That nothing contained in section four of the act to which this is a supplement shall be so construed as to require not less than seven days to elapse before any measure passed by one board shall be adopted in the other.

Explanatory.

Sec. 6. Be it further enacted, That the members of the two boards, when they shall meet in convention for the election of officers and agents as is provided in the seventh section of the act to which this is a supplement, shall have full power to elect all officers and agents which shall be deemed necessary for the purposes of said corporation, except the clerk of the board of common council, who may be appointed by said board in conformity with the provisions of section third of the act aforesaid, without the concurrence of the board of mayor and aldermen.

Joint convention of the boards.

Sec. 7. And be it further enacted, That all laws and parts of laws contravening the provisions of this supplemental act be and the same are hereby repealed.

Repeals.

Approved, February 10, 1852.

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[No. 197.]

AN ACT

To authorize appeals from the decisions of the mayor and aldermen of the city of Montgomery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, an appeal may be had to the circuit court of Montgomery county upon all judgments rendered by the mayor and aldermen of the city of Montgomery in like manner and upon the same terms and conditions as now prescribed by law in cases of appeal from the decisions of justices of the peace.

Approved, February 10, 1852.

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[No. 198.]

AN ACT

To provide for taking the sense of the qualified voters of the city of Montgomery as to the manner of the selection of city marshal and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,



That at the next municipal election to be holden in the city of Montgomery, or at such subsequent period as the mayor and aldermen of said city may designate, said mayor and aldermen, after having given at least twenty days' notice of the time, by publication in the several journals of the city, or in such other manner as is customary, shall cause the sense of the qualified voters residing within the corporate limits of the same, as to the mode of electing a city marshall, which election shall be holden and conducted as other municipal elections; that the sense of voters shall be taken in the manner following to-wit: That ballots of each voter favoring an election by the people shall be endorsed "people;" the ballot of each voter favoring an election by the mayor and aldermen shall be endorsed "aldermen;" that the commissioners of elections shall compare the votes and declare the result.

Question to be  
voted on by  
the people.

Sec. 2. And be it further enacted, That if a majority of the votes cast shall be in favor of an election by the people, the marshall shall thereafter be elected by the qualified voters of said city as now provided by law; but if a majority of the votes cast be in favor of an election by the aldermen, the marshall shall thereafter be elected by the mayor and aldermen as provided in the original act of incorporation, approved December 23, 1837; any law, usage or custom to the contrary notwithstanding.

Effect of elec-  
tion.

Approved, January 30, 1832.

[No. 199.]

AN ACT

To provide for contesting the municipal elections of Mobile,  
and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That if any municipal election shall be contested in the city of Mobile, it shall be before the judge of the circuit court of the Mobile district or judge of the city court of Mobile; testimony may be taken by a justice of the peace, or before a commissioner appointed by the judge trying the cause for that purpose, or may cause the witnesses to come before him and depose in the case.

Election shall  
be contested  
before judge,  
&c.

Sec. 2. Be it further enacted, That the ballots at the several polls or precincts in the city of Mobile shall be carefully sealed up without examination after said election, and shall be by the managers deposited with the sheriff of said

Ballots shall be  
kept.



county, who shall preserve the same for fifteen days; and then if there be no contest, said sheriff shall cause the same to be burned in his presence; but in the event of a contest they shall be delivered to the judge trying the same.

Sec. 3. Be it further enacted, That the party contesting shall give notice of said contest to the sheriff and judge before whom he wishes said contest tried and the person or persons whose election are so contested within fifteen days next succeeding said election.

Notice of contest shall be given to sheriff.

Sec. 4. Be it further enacted, That when testimony is taken under this act, the opposite party shall have two days' previous notice of time and place; and the party taking depositions shall receive fees as follows, to-wit: For each hundred words, ten cents; for each notice or certificate to the officer serving notices or subpoenas, each, fifty cents; to be paid by the party at whose instance the said service is performed.

Notice to opposite party.

Sec. 5. Be it further enacted, That after said testimony is completed, said judge trying the cause shall examine the poll list and ballots and pronounce judgment in the case according to the facts developed.

Trial.

Sec. 6. Be it further enacted, That hereafter, commencing at the municipal election to be held in and for the city of Mobile on the first Monday of December, 1852, the persons who shall be elected to fill the respective offices of mayor and common councilmen of said city shall hold their offices for the term of three years; and that after the said election December, 1852, no general election shall be held for either of the offices of mayor and common councilmen oftener than once in three years; but that when a vacancy shall occur in the meantime in either or any of said offices, the same shall be filled in the manner now prescribed for the balance of the unexpired term for which such mayor or common councilman was elected whose office shall be so vacant.

Term of office of mayor and common council extended.

Sec. 7. Be it further enacted, That hereafter, commencing at the municipal election to be held in and for said city on the first Monday in December, 1852, there shall be three aldermen elected for each ward in said city by the qualified voters thereof respectively; one of which said alderman from each ward shall hold his office for the term of one year, and one for the term of two years, and one for the term of three years from the date of said election in 1852, and no longer; and that on or before the first Monday in November, 1853, the said three aldermen so elected for each ward shall, in the presence of the board of aldermen, which shall be organized as now required, so far as may

Election of aldermen regulated.



be, and in such manner as said board shall direct, determine by lot which one of said three aldermen for each ward shall hold his office for one, and which for two, and which for three years; so that thereafter, commencing at the said election in 1853, one alderman from each ward, and no more shall be annually elected at the said municipal election in each year, who shall hold his office for the term of three years, and no longer; all vacancies in said board of aldermen by death or otherwise to be filled in the manner pointed out by the laws now in force, and for the unexpired time of the persons whose office shall become vacant.

Sec. 8. Be it further enacted, that from and after the first Monday in March, 1853, there shall be but one person elected tax assessor in and for the city of Mobile; and that the person who shall be so elected at any time shall hold his office for the term of three years from the date of his said election, except when a vacancy shall occur in the said office of assessor by death, resignation or removal, in which event an assessor shall be elected who shall hold his office from the date of his election to fill such vacancy until the first Monday of March next succeeding, and for the term of three years from and after the said next succeeding first Monday of March; that said assessor shall be elected by the mayor, aldermen and common council of said city on the first Monday of March, 1853, and thereafter on the same day as often as an election may be necessary to fill a regular term of said office of assessor; and in case of vacancy as aforesaid, then said election shall be had as soon as possible after the said vacancy shall occur; that said assessor shall hold his office in the municipal buildings of said city; devote his entire time and attention to the duties appertaining to his said office of assessor; and that the books and papers relating to his said office shall, at all proper times, be kept open to public inspection; that once in each year under such regulations and in such period of time as the said corporate authorities may from time to time ordain and appoint, the said assessor shall make an assessment of all the property in said city liable to be assessed; and that for the performance of the duties of said office, the said assessor shall be compensated in such manner and to such extent as the said corporate authorities may from time to time ordain and establish, but in no case to be changed during the official term of any assessor.

Tax assessor,  
his duty.

Sec. 9. Be it further enacted, that from time to time hereafter there shall be elected for said city some competent person who shall act as surveyor or civil engineer in and

City may to  
be elected, his  
duty.



for said city, who shall be styled "city surveyor," and who shall hold his office for the term of three years, and no longer, from the date of his election, and shall keep his office in the municipal buildings, together with all surveys, field-notes, maps, charts, diograms, &c., and all papers and memoranda relating to his said office of city surveyor, or which may be necessary or proper for a perfect understanding of his acts in his said office, all of which shall be entered by him in suitable books to be provided by and to be the property of the city; which books shall be at all times open to public inspection, under such regulations as the corporate authorities shall from time to time prescribe; the foregoing duties to be additional to those required under existing laws and ordinances; and for all of which said city surveyor shall receive such annual or other compensation, not to be changed during his official term, as the said corporate authorities shall allow; that for the purpose of carrying out the provisions of this act, the mayor, aldermen and common councilmen of said city, in joint assembly convened, shall, on the first Monday of March, 1853, and from time to time thereafter, as often as a vacancy in said office may occur, proceed to elect said city surveyor.

Sec. 10. Be it further enacted, That from and after the passage of this act, all fines and forfeitures adjudged or assessed against any white person or persons, or free person or persons of color, by the mayor or any one of the aldermen or common councilmen of said city, under or by virtue of any statute of this state or of any proper ordinance of said city, may be enforced and collected against any such person or persons by execution to be issued by the clerk of said corporation and to be directed to and executed by any marshall, deputy marshall, captain or lieutenant of the guard of said city; which said execution shall, in all respects, except in the direction thereof as aforesaid, conform to and be governed by and be executed by the said officers to whom the same is to be directed in the same manner as is required by the laws regulating executions issued by justices of the peace of this state.

Of fines and  
forfeitures.

Sec. 11. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 9, 1852.

[No. 200.]

## AN ACT

To authorise the corporate authorities of the city of Mobile to levy a special tax.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of the 3d section of an act approved 5th January, 1850, which authorised the corporate authorities of the city of Mobile to raise the sum of \$300,000 by taxation, be and the same is hereby repealed; and in lieu thereof the said corporate authorities are hereby authorised to levy a tax on all the real estate within the limits of said city of two per cent. per annum for five years: Provided, That those who have personally subscribed to the stock of the Mobile and Ohio railroad company shall, for all sums paid on said stock over and above 20 per cent., be allowed to deduct the same from the tax collectable under this act.

Repeals.

Tax may be levied.

Sec. 2. Be it further enacted, That all the provisions of the said act approved 5th January, 1850, entitled an act to amend and explain an act entitled "an act to incorporate the Mobile and Ohio railroad company," are hereby re-enacted and made applicable to the subject matter herein contained, except that hereafter the tax collector shall receive one half of one per cent. on all sums collected by him under this act and duly paid over.

Provisions re-enacted.

Sec. 3. Be it further enacted, That the corporate authorities aforesaid are hereby authorised to anticipate the two last years' taxation by issuing bonds at a rate of interest not to exceed 8 per cent. per annum, to be redeemable by the taxes collected for said years.

May anticipate tax.

Sec. 4. And be it further enacted, That at the time of the submission of the question to the voters of the city as is required by the act, the voters may designate whether they prefer a portion of the subscription to be made to some other railroad within this state, designating the portion of the said tax and the name of the road to which it should be applied, and the tax shall be apportioned according to the vote as required under the said act of 5th January, 1850.

Privilege of voters.

Approved, December 20, 1851.



[No. 201.]

AN ACT

To repeal in part an act to alter and amend the several laws for the government and regulation of the port and harbor of Mobile.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the 13th section of an act entitled "an act to alter and amend the several laws for the government and regulation of the port and harbor of Mobile," approved the 6th of March, 1848, be and the same is hereby repealed.

Approved, January 8, 1852.

Repeals part of  
an act.

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[No. 202.]

AN ACT

To define the corporate limits of Wetumpka.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That section thirteen; the east half of the north-east quarter of section twenty-four, in township eighteen and range eighteen; the west half of the north quarter of section seventeen; section eighteen; the norwest quarter of section nineteen, in township eighteen and range nineteen, with the river and margin within said boundaries, be the incorporate limits of the city of Wetumpka.

Limits defined.

Sec. 2. Be it further enacted, That the existing laws and ordinances of said city are made applicable to persons and property within the said incorporate limits; the jurisdiction of the mayor and aldermen of the city of Wetumpka as a corporation is given and extends over all the land and water embraced within the above mentioned sections and parts of sections of land; the corporate authorities may assess taxes, impose duties for all property or thing of value that is passed to or from the river within the said corporate limits, but must not impair any granted existing right.

Laws and ordi-  
nances ex-  
tended.

Sec. 3. And be it further enacted, That all property or interest of any part of Wetumpka must be property or interest held in common by said corporation; there must be but one common fund, regardless of the source or part of the city from which it is created; all expenses for repairing streets or improving the city or its property in any manner must be paid from the common fund; all incomes must be paid into the common fund.

Corporate prop-  
erty held in  
common.

Approved, February 10, 1852.

[No. 203.]

## AN ACT

To amend and alter the charter of the city of Wetumpka.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the mayor and aldermen of the city of Wetumpka shall, at the next municipal election in said city, in such manner as they may deem meet, cause the sense of the qualified voters within said city to be taken as to whether said charter shall be so amended as in future to require the election of a marshall, clrk and treasurer of said city by the voters within said incorporate limits; and in the event that a majority of those who are recognised as qualified voters by said charter shall be in favor of a change in the manner of the appointment of said officers, or either of them, then and in that event said charter shall be and the same is hereby amended so as to authorise and require the selection of said officers in future by such voters, in conformity to the result ascertained by said election; but in the event that a majority of the voters shall not be in favor of a change in the manner of the appointment of said officers, or either of them, then the same shall be appointed as now provided by law; and all vacancies in said offices shall be filled in the same manner as vacancies of mayor or aldermen are or may be filled.

Approved, February 10, 1852.

Questions of elections submitted to the people.

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[No. 204.]

## AN ACT

Ratifying and confirming some of the acts of the town council of Cahaba, and for other purposes.

Whereas, the town council of Cahaba have passed an ordinance authorising Joel E. Matthews to close up certain streets therein mentioned, and have submitted a proposition to the legal voters of said town and with their assent have sold to said Joel E. Matthews twenty acres of the commons belonging to said town, and have selected and enclosed two acres of said commons for the purposes of a cemetery, and have sold divers lots therein, which acts the said town council desires to be legalised; and whereas, sundry citizens of said town have trespassed and encroached upon the public streets of said town, who should be restrained and restricted to their proper limits; and whereas, there is a large body of land surrounding said

Preamble.



town which was originally reserved as a commons, but which is now of but little value for timber and grazing purposes, which it may be desirable to sell at some time; therefore:

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, that the ordinance heretofore passed by the town council of Cahaba, authorising and empowering Joel E. Matthews to close up Pine and Alabama streets south of fifth south street and sixth and seventh south streets, east of Walnut street in said town, be and the same is hereby legalised and confirmed.

Ordinances  
ratified.

Sec. 2. Be it further enacted, That the sale of twenty acres of the town commons of Cahaba to Joel E. Matthews, for purposes connected with his factory, made under the authority of an ordinance passed by said town council on the thirtieth day of October, A. D. 1851, with the assent of a majority of the legal voters of said town, be and the said sale is hereby legalised and confirmed; and that the title to said land as conveyed in conformity with the said ordinance be and the same is hereby forever divested out of said town of Cahaba and invested in said Joel E. Matthews, his heirs and assigns forever in fee simple.

Certain sale of  
land ratified.

Sec. 3. Be it further enacted, That the acts of the town council of Cahaba in selecting and enclosing two acres of the commons of said town for the purposes of a cemetery, and then the division of the one-half part thereof into lots, and the sale of such lots to the citizens of said town, be and the same is also legalised and confirmed.

Certain selec-  
tion of ground  
ratified.

Sec. 4. Be it further enacted, That the titles to lots already sold in said cemetery be and the same are hereby divested out of said town and invested in the purchasers thereof: Provided, however, That such lots shall always be exempt from sale under execution or any other legal process: Provided still further, That one-half of said cemetery shall always be reserved for the purposes of a public burial ground.

Certain titles  
divested and  
invested.

Sec. 5. Be it further enacted, That the intendant and town council are hereby vested with authority to have the streets of said town of Cahaba as originally laid out surveyed and ascertained and to have removed all trespasses and encroachments upon said streets in such manner as the town council of said town may direct: Provided, however, That said council at their discretion may refuse to order any street or streets to be opened, if the same is not required by the public convenience, of which said council shall be the judge.

Council vested  
with certain  
powers.

Sec. 6. And be it further enacted, That the intendant and town council of said town of Cahaba may at any time, with assent of a majority of the legal voters of said town, sell or cause to be sold a part or all of the town commons of said town and lots which have been leased under the ordinances of said town, with the assent of the lessees thereof: Provided, however, That such sale or sales shall be in lots not exceeding ten acres, and that the proceeds of any such sale or sales shall be kept perpetually invested at interest with good security, and that the interest alone shall be annually applied to the municipal purposes and expenses of said town.

May sell town commons.

Proviso.

Approved, January 31, 1852.

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[No. 205.]

AN ACT

To amend the charter of the town of Salem, in the county of Russell.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the intendant and councilmen of the town of Salem, in the county of Russell, be and they are hereby authorised, upon ten days' previous notice, to cause the sense of the qualified voters within the corporate limits of said town to be taken as to whether the sale of intoxicating drinks shall be prohibited within such incorporate limits, which election shall be conducted in such manner as the said intendant and councilmen shall deem meet in order to obtain a fair expression of such votes; and if a majority of the qualified voters within such corporate limits shall at any such election (which said intendant and councilmen are authorised to hold) be in favor of such prohibition, the said intendant and councilmen shall be and they are hereby authorised and empowered to make and cause to be enforced all such by-laws and ordinances not inconsistent with the constitution of the State of Alabama as shall be needful and necessary entirely and effectually to prevent the sale of intoxicating drinks within the incorporate limits of said town.

Vote to be taken whether retail license shall be granted.

Effect of vote.

Approved, February 10, 1852.



[No. 206.]

## AN ACT

To amend the charter of the town of Decatur, in the county of Morgan, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the corporate authorities of the town of Decatur, in the county of Morgan, be and they are hereby authorised and empowered to regulate and prescribe the terms upon which any billiard table or ten pin alley, or any other table or alley of the like character or description, whether a greater or less number of pins, or any substitute be used therefor in playing thereon, may be kept within the corporate limits of said town; that they may grant a license to any person or persons desiring to keep any such table or alley on such terms and require such sum to be paid therefor as they may think proper.

Powers as to  
billiard tables,  
ten-pin alleys,  
&c.

Sec. 2. Be it further enacted, That if any person or persons shall keep or cause to be kept any such table or alley within the corporate limits of the town of Decatur, without first having obtained a license therefor from the corporate authorities of said town, and shall be thereof convicted before either the intendant or the intendant and councilmen of said town, he, she, or they may be fined in any sum not exceeding twenty-five dollars for each and every day or part of a day the same may be kept or used for the purpose of playing; and the table or alley so kept, together with all the implements used in playing thereon, may be sold by the marshall of said town, under execution to him directed and to be issued by the intendant of said town and for the purpose of paying said fine, together with the costs that may have accrued thereon; and the said table and implements used in playing shall be thus subject to sale, whether the said table belongs to the person or persons so keeping it or not: Provided, That the said marshall shall give at least ten days' notice by advertisement of the time and place of sale.

Penalty for vi-  
olating ordi-  
nances.

Proviso.

Sec. 3. Be it further enacted, That the corporate authorities of the said town of Decatur be and they are hereby authorised and empowered to regulate and prescribe the terms upon which any establishment for the purpose of retailing spirituous liquors within the corporate limits of said town may be kept; that they may grant a license to any person or persons desiring to keep any such establishment on such terms and require such sum to be paid therefor as

Powers as to  
retailers.

they may think proper: Provided, The sum required to be paid shall in no one instance exceed five hundred dollars.

Proviso.

Sec. 4. Be it further enacted, That if any person or persons shall keep or cause to be kept any establishment within the corporate limits of said town for the purpose of retailing spirituous liquors, without first having obtained a license therefor from the corporate authorities of said town, he, she or they, on conviction thereof before the intendant of said town, may be fined in any sum not exceeding ten dollars for each offence they may commit against the provisions of this section of this act; and the said Marshall shall proceed and collect the fine that may be thus imposed on him, her or them, together with all costs that may accrue thereon, under execution to be to him directed and to be issued by the intendant of said town: Provided, however, Said Marshall shall always give at least ten days' notice of the time and place of any sale that is to be made under said execution.

Penalty for violating ordinance.

Sec. 5. Be it further enacted, That if any person or persons, having been convicted under the provisions of the second or fourth sections of this act, shall fail to pay such fine as may be imposed or assessed against him, her or them, the person or persons so refusing or failing to pay such fine may, by order of the intendant of said town, be imprisoned in the corporation jail of said town for any length of time not exceeding ten days.

Person convicted and failing to pay fine may be imprisoned.

Sec. 6. Be it further enacted, That the said corporate authorities be and they are hereby authorised and empowered to levy and collect a tax from the citizens of and on the real and personal property within the corporate limits of said town, in any sum they may think proper: Provided, They shall have power to levy and collect taxes only on such property as they are now by law authorised to tax, and that the amount of taxes so collected shall not exceed the sum of three thousand dollars in any one year: And provided further, That the rate of taxation shall be uniform.

Board may levy and collect taxes.

Sec. 7. Be it further enacted, That the said corporate authorities of said town of Decatur are hereby empowered and authorised to make all such by-laws and regulations as to them may seem right and proper for the protection of persons and property; and also to secure correct moral deportment from all persons within the corporate limits of said town; and the said corporate authorities are authorised and empowered to imprison in the corporate jail of said town any and all persons whomsoever that may fail or refuse to pay any fine or penalty that may be imposed under

Corporate powers and police regulations.



the provisions of the by-laws or regulations of the said corporate authorities: Provided, The said imprisonment shall in no one case exceed ten days.

Sec. 8. And be it further enacted, That all laws and parts of laws that contravene the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, January 24, 1852.

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[No. 207.]

# AN ACT

To enlarge the corporation of the town of Fayetteville.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the boundary of said corporation be as follows: The west half of the north-east quarter, and the east half of the west half of the north-east quarter, and the east half of the north-west quarter of section No. six, township sixteen, range No. twelve; and south-west quarter of south-east quarter, and south-east quarter of south-west quarter of section thirty-one, township fifteen, range twelve, west; and that the mayor and aldermen of the town of Fayetteville, Fayette county, be and they are hereby fully authorised and empowered to regulate and prescribe the terms upon which any billiard table or ten pin alley, or any other table or alley of the like character or description, whether a greater or less number of pins or any substitute be used therefor in playing thereon, may be kept within the corporate limits of said town; that they may grant a license to any person or persons desiring to keep any such table or alley on such terms and require such sum to be paid therefor as they may think proper.

Corporate limits.

Powers of mayor and aldermen.

Sec. 2. Be it further enacted, That if any person or persons shall keep or cause to be kept any such table or alley within the corporate limits of said town, without first having obtained a license therefor, and shall thereof be convicted before said mayor or any member of the board of aldermen, he or they may be fined in any sum not exceeding twenty dollars for each and every day or part of a day the same may be kept and used for the purpose of playing thereon; and the table or alley so kept, together with all the implements used thereon, may be sold by the marshal of said town, on giving ten days' notice by advertisement in three public places, to pay said fine and all costs which may have accrued thereon, whether such table or alley belongs to the person or persons so keeping or not.

Restriction and penalty.

Sec. 3. Be it further enacted, That if any person or persons having been convicted as aforesaid shall fail to pay such fine as may be assessed against him, he or they may be imprisoned by order of the mayor or aldermen, before whom he or they may be tried, in the county jail of Fayette county for any length of time not exceeding twenty-four hours for any one offence; and it is hereby made the duty of the jailor of said county to receive into his custody all persons who may be ordered to be imprisoned upon being paid.

Power to enforce payment.

Sec. 4. And be it further enacted, That all the powers conferred by the previous sections of this act upon said mayor and aldermen to regulate and prescribe the terms upon which billiard tables and ten pin alleys may be kept, by granting license and imposing fines and penalties, be and they are hereby extended to the business of retailing spirituous liquors: Provided, Such tax shall not exceed one hundred dollars.

Powers extended.

Approved, February 5, 1852.

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[No. 208.]

#### AN ACT

To extend the power and authority of the intendant and council of the town of Livingston.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the intendant and council of the town of Livingston, in the county of Sumter, shall have full powers to ordain all such ordinances and resolutions and make all such regulations as may be then be deemed necessary for the control of the retailing of spirituous liquors within said town; to grant license for retailing of spirituous liquors in said town upon such sum to be paid therefor by each retailer, not to exceed two thousand dollars per annum, as the said intendant and council may order; to restrain and prohibit them when deemed a nuisance; to provide regulations for the punishment of any negro or white person who shall buy any species of ardent spirits and furnish to a slave; and in general to adopt such a system of police and municipal regulation in regard to the traffic in ardent spirits as shall be deemed by them most conducive to public order and morality and policy in reference to the black or colored population not forbidden by the constitution and laws of this state.

Powers of corporate authority increased.

Approved, February 9, 1852.



[No. 209.]

## AN ACT

To revive the act incorporating the town of Richmond, Dallas county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act of 1839, incorporating the town of Richmond, in Dallas county, is hereby revived.

Revived.

Sec. 2. And be it further enacted, That Alex. Stewart, Josiah E. Pouncy, James C. Jones, Mark Ethridge, W. H. Lee and James A. Fountain, are hereby authorised to hold an election for the municipal officers by said act of 1839 designated, at any time within three months after the passage of this act, who on their election shall proceed at once to the discharge of their corporate functions as by said act of 1839 prescribed.

Election shall be held.

Approved, February 9, 1852.

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[No. 210.]

## AN ACT

To give the powers of constables to the town marshall of the towns of Jacksonville and Elyton.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town marshall of the town of Jacksonville, upon giving the bond and taking the oath as now by law required of constables in the State of Alabama, shall be authorised to exercise the powers of and discharging all the duties which appertain to the office of constable under the laws of this state, in the county of Benton.

May do the duties of constable.

Sec. 2. And be it further enacted, That the provisions of the first section of this act be and they are hereby extended to the town marshall of the town of Elyton, in the county of Jefferson.

Extended to Elyton.

Approved, February 10, 1852.

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[No. 211.]

## AN ACT

To amend the act incorporating the town of Montevallo in Shelby county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the qualified electors resident within the corporate

limits of said town shall have power to elect a constable, who shall give bond, execute, discharge all the duties and be liable to the penalties of constables as now prescribed by law.

Town constable may be elected.

Sec. 2. And be it further enacted, That there shall be an election held on the first Monday in May next by the qualified electors of said town, which election shall be held and regulated as elections of constable and governed by and subjected to all the laws pertaining to such elections, shall give bond and continue in office as other constables.

His powers and duties.

Approved, February 10, 1852.

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[No. 212.]

AN ACT

To define the corporate limits of the town of Hayneville, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the corporate limits of the town of Hayneville, in Lowndes county, shall be three-fourths of a mile square, the courthouse being the centre, and the boundary lines running north and south and east and west.

Corporate limits defined.

Sec. 2. And be it further enacted, That the citizens of said town shall be exempt from the performance of beat patrol duty and shall only be subject to be called on to perform patrol duty within the limits of said town on the requisition of the council of the same: Provided, That if the limits of said corporation, as fixed by this act, should include the present residence of Lawrence Rambo and J. M. Cole, respectively, that the said Rambo and Cole and the property both real and personal belonging to either, not embraced in the present corporate limits of said town, shall not be subject to taxation or other duty by the corporate authorities of said town; nor shall the said Rambo and Cole be subject to patrol or other duty under the authority of said corporation, but remain subject to patrol, and together with their hands, to road duty under existing laws of this state.

Patrol duty regulated.

Proviso.

Restriction.

Approved, February 9, 1852.



[No. 213.]

AN ACT

To enlarge the powers of the corporate authorities of the town of Oak Bowery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the first day of April next, it shall not be lawful for any person to sell spirituous liquors of any kind in the town of Oak Bowery, in the county of Chambers, or within two miles of said town.

Sale of spirituous liquors prohibited.

Sec. 2. And be it further enacted, That as a condition precedent to the operation of this act, the town marshall of Oak Bowery shall give twenty days' notice to the legal voters residing within the limits above recited of an election to be held for the purpose of testing the sense of the said voters, at which election the question shall be put: "Are you in favor of restriction or no restriction:" and in the event a majority of the votes given shall be for restriction, then and in that event the town council of Oak Bowery shall proceed to make such regulations as to them may seem right and proper; but if a majority of said voters are in favor of "no restriction," then the provisions of the first section of this act shall be null and void: Provided, Nothing herein contained shall be so construed as to confer upon the town council authority to issue license to any retailer who has not obtained a license from the probate court in conformity to the law now in force upon the subject.

Question to be submitted to the people of said town.

Approved, February 9, 1851.

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[No. 214.]

AN ACT

To amend "an act to incorporate the town of Florence," approved 14th January, 1826.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the mayor and aldermen of the town of Florence be and they are hereby authorised to close up and sell in such way as may be deemed for the interest of said town, all that part of court street, thirty feet in width, which commences at the north-east corner of a lot owned by E. B. Martin on said street, running thence north or north-west to where the circular road intersects with said street: Provided, However, That if in the opinion of the said mayor and aldermen the property owned by E. B. Martin or others on said



street be thereby depreciated in value, they are authorised and required to make reasonable compensation for such injury.

Approved, January 30, 1852.

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[No. 215.]

AN ACT

To amend "an act for the incorporation of the town of Benton."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the corporate authorities of the town of Benton be and the same are hereby authorised to levy a tax upon the real estate within said corporation sufficient for the exigencies of the same: Provided, That said amount assessed shall not exceed five per cent. on the actual value thereof.

Corporate powers increased.

Proviso.

Repeals.

Sec. 2. And be it further enacted, That all laws and parts of laws militating against this act be and the same are hereby repealed.

Approved, January 29, 1852.

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[No. 216.]

AN ACT

To amend the charter of the town of Somerville.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act the intendant of the town of Somerville, in the county of Morgan, in all cases in which he has now the power to impose fines on persons guilty of a breach of the peace or other disorderly conduct within the corporate limits of said town, shall have power to superadd imprisonment not exceeding ten days, when the fine and costs are not paid; and for that purpose he may use the common jail of said county.

Powers of intendant increased.

Approved, January 6, 1852.



[No. 217.]

## AN ACT

To amend the act incorporating the town of Orion, in Pike county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the corporate limits of the town of Orion, in Pike county, shall only extend one-quarter of a mile east and west, and five-eighths of a mile north and south of the centre of the Orion male and female institute.

Corporate limits defined.

Sec. 2. And be it further enacted, That the election for the officers of said town shall be held on the first Saturday in April of each year.

Election.

Approved, January 29, 1852.

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[No. 218.]

## AN ACT

To repeal in part an act entitled an act to amend the laws in relation to the town of Demopolis, and to amend the laws of said town.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all of an act to amend the laws in relation to the town of Demopolis, in Marengo county, approved February 26th, 1848, except the sixth section thereof, that defines the limits of said town, be and the same is hereby repealed.

Repeals.

Sec. 2. Be it further enacted, That the intendant and council of the town of Demopolis be and they are hereby authorised to pass such ordinances and by-laws as are necessary to compel owners of lots on the principal streets and most frequented streets in said town to make and keep in repair side walks in front of their respective lots; and upon a failure or refusal to do so, after such notice as the said intendant and council may prescribe and consider lawful, they are hereby authorised and empowered to levy a tax not exceeding twenty-five dollars on each lot, and proceed to collect the same in such manner as said intendant and council may prescribe.

Powers of corporate authorities.

Sec. 3. And be it further enacted, That all laws and parts of laws contravening this act be and the same are hereby repealed: Provided, That a majority of the qualified voters of said town of Demopolis are in favor of said repeal, to be ascertained by an election to be held on the first Monday of March next, the polls to be opened in each ward at 12 o'clock, M., and continue open until 4 P. M.,

Repeals.

Proviso.

Election shall be held.



under the direction of the intendant of said town, and two managers in each ward, to be appointed by him; those in favor of the repeal of the law shall write "repeal" on their tickets, and those opposed shall write "no" on their tickets.

Approved, February 4, 1852.

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[No. 219.]

# AN ACT

To regulate the sale of spirituous liquors in the town of Elyton.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the first day of January next, it shall not be lawful for any person to sell spirituous liquors of any kind in the town of Elyton, in the county of Jefferson, or within two miles of said town, except as hereinafter provided.

Prohibition.

Sec. 2. Be it further enacted, That any regular licensed physician who may reside within said limits may, by producing his license to the judge of probate and taking and subscribing the following oath, sell for medical purposes: "I, A. B., do solemnly swear that I will not sell spirituous liquors of any kind except for medical purposes, and under the prescription of myself or the prescription of some other regular physician."

Liquors may be sold for medical purposes.

Sec. 3. Be it further enacted, That it shall be the duty of the judge of probate to issue a license to all regular physicians who comply with the provisions of this act and pay over to said judge of probate the sum of five dollars as a state tax.

License for that purpose.

Sec. 4. Be it further enacted, That all persons who shall violate the provisions of this act, and being thereof convicted, upon indictment shall be fined not less than fifty dollars for every conviction.

Penalty for violating this act.

Sec. 5. And be it further enacted, That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 16, 1851.



[No. 220.]

AN ACT

To amend an act to incorporate the town of Huntsville.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the corporate limits of the town of Huntsville in said state shall extend one mile from the centre of the public square in said town and constitute a superficial square, the centre of which shall be the centre of the public square, and the lines of which shall run parallel with the public square; and the mayor and aldermen of Huntsville shall have the same powers and jurisdiction over the increased limits and the inhabitants embraced within them that they now have under their charter.

Corporate limits defined and extended.

Approved, February 9, 1852.

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[No. 221.]

AN ACT

Supplementary to an act entitled "an act to extend the corporate limits to the town of Huntsville.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the corporate limits of the town of Huntsville, shall not be extended as provided in said act, unless with the concurrence of a majority of the legal voters proposed to be included within the corporate limits aforesaid.

Restriction.

Approved, February 10, 1852.

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[No. 222.]

AN ACT

In relation to the town of Clayton, in Barbour county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the intendant and town council of the town of Clayton, in Barbour county, be and they are hereby authorised to use the jail of said county for the purposes of said corporation on such terms and conditions as the commissioners of revenue and roads of said county shall prescribe: Provided, That there be no obstructions to the laws of the state.

Corporate authority may use county jail.

Proviso.

Approved, February 9, 1852.

[No. 223.]

- AN ACT

To amend the charter of the Alabama and Tennessee River Railroad Company.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act entitled an act to incorporate the Alabama and Tennessee River Railroad Company, approved March 4, 1848, be and the same is by this act amended as hereinafter specified; the capital stock of said company may be increased by the board of directors at any time and from time to time by resolution of the board to such amount as the board may deem necessary and expedient for carrying into full effect the objects and purposes of said company as sanctioned and authorized by their original charter, with such amendments thereto as may have been or may be authorized.

Capital stock  
increased.

Sec. 2. Be it further enacted, That hereafter two directors may be added to the board of directors as now constituted, so as to make eleven directors, (including the president of the company,) instead of nine as heretofore; at any time before the next annual meeting of the stockholders of the company, the two additional directors authorized by this act may be chosen from among the stockholders by the present board of directors, to hold their offices until the next annual election of directors and until a new board shall have been chosen and qualified as provided for the directors under the present charter; at the next annual and all subsequent elections by the stockholder of directors, instead of nine directors, as authorized by the present charter, including the president, the stockholders shall elect in the manner provided by the existing charter eleven directors, including the president of the company, who shall have all the powers, rights and privileges and be subject to all the regulations, provisions and restrictions which apply to the board of directors under the present charter and which may be authorized and provided for in any amendment of the charter: Provided, That six directors, including the president, shall constitute a quorum for all business.

2 directors  
added to board.

Sec. 3. Be it further enacted, That to remove any doubt which may exist on the subject in relation to the power of the company, the said company, acting by the board of directors or their authorized agent or attorney, in addition to the remedies now provided against stockholders, shall have the right in all cases where an attachment would

Remedies  
against stock-  
holders.



be allowable between individual persons, to resort to the ordinary process of attachments not only to secure or collect instalments which may be due, but also to secure the remaining unpaid portion of subscriptions to the capital stock of said company, which attachment shall be levied by the proper officer in all respects as ordinary attachments; and the same affidavit and bond shall be required on behalf of the plaintiff and the same bond given by the defendant or defendants as in other cases; the affidavit may be made and bond given by an agent or attorney of the company and garnishees may be summoned as in other cases; and these rights shall extend as well to ancillary as to other forms of attachments.

Sec. 4. Be it further enacted, That in all suits on motions by the company against stockholders, where it shall appear that the presiding judge before whom the case or cases may come for hearing is interested, on motion of the plaintiff's attorney therefor, the case or cases shall by the presiding judge be transferred for trial to the nearest circuit court which may next sit, the presiding judge of which may be supposed not to be interested, so that the case or cases may be determined as speedily as practicable; and the case or cases shall be heard and determined in the court to which they may be removed, (the presiding judge not being interested,) as if they had been originally brought in said court; in all cases of controversy which may arise between the company and any stockholder or stockholders in relation to his, her or their subscription to the capital stock of the company, no person shall be held incompetent as a witness for either party by reason of the fact that such person may be a stockholder of the company.

Of trial of suits  
against stock-  
holders.

Sec. 5. Be it further enacted, That as doubts have arisen in relation to the rights, powers and duties of said company, under the tenth section of the act aforesaid, (to which this is an amendment,) in relation to the procurement of right of way, depot grounds, &c., the following shall be and the same is hereby substituted in lieu of the said tenth section, to-wit: The said company, acting by its board of directors, is hereby authorized to contract for and purchase such timber, stone and other materials as may be needed in the construction of their railroad, and to purchase, receive and hold in fee simple such quantity or parcels of land and appurtenances as may be necessary and convenient in accomplishing the purposes of its incorporation and organization; that is to say, such lands as may be required by the company for right of way for single or double track rail-

Powers in pro-  
curing right of  
way more fully  
defined.

road, and such lands appurtenances as may be required at different places for stations, turnouts and ample depots and warehouses, workshops, machine shops, and other necessary purposes in connection with the railroad; and the said company may, by their agents, engineers and servants, enter upon and occupy all the lands and tenements authorised to be purchased or held as aforesaid; in case any portion of lands authorised to be required by said company shall belong to the estate of any deceased person or persons, the company may contract with the executor or administrator of such deceased person or persons, who are hereby made competent to convey to said company such title in such lands as was held by his, her or their testator or intestate at the time of his, her or their death; or in case said lands shall belong to a minor or minors, or person non compos mentis, the company may contract with his, her or their guardian or guardians, who are hereby made competent in their fiduciary character to convey to said company such portion of the lands of his, her or their ward or wards as the company is by this section authorised to receive and hold; and in case such lands or any part shall be held by trustees of school funds, or other trustees or body corporate, the said company may contract with and receive conveyances from such trustee or trustees, or cestui que trust, or the managers or directors of the body corporate; all which conveyances so authorised, when made in conformity with the provisions of this section, shall vest in said company such title as the person or persons who may be represented by the parties hereby authorised to make such conveyances may have in the lands at the time of making such conveyances, in the event that the said company and the owners of the lands, or any portion thereof, authorised to be acquired by said company shall not agree about the same; and this provision relates also to the lands belonging to estates of deceased persons, minors, persons non compos mentis, or lands held by trustees and bodies corporate as above specified, and those authorised in this section to make conveyances thereof; or in case the owner or owners of such lands may be unknown, or may reside without the state, or his, her or their residence may be unknown, in these or any of these cases, the said company, acting by its board of directors, or duly authorised agent or agents, may apply to the clerk of the circuit court of the county in which such lands may lie, for a writ of ad quod damnum which writ whenever so applied for shall be issued by said clerk, directed to the

Powers in procuring right of way more fully defined.



sheriff of his county, commanding and requiring him to summon a jury of seven good and discreet freeholders of his county no ways related to the owner or owners of the lands to be assessed nor stockholders of the company, and who are not likely to be interested in similar proceedings, to be and appear at such suitable and convenient place as he may designate, on a day or days to be fixed by him, which day or days shall be as early as practicable after the said writ may come to his hands, to assess the value of lands specified in the writ of ad quod damnum and required by said company and the damage which the owner or owners may sustain by the construction of the railroad of said company through such lands and the right of way which may be required for said railroad; and it shall be the duty of the persons so summoned as jurors to appear at the time and place appointed, then and there to determine and assess the value of said lands and the damages which may be sustained as aforesaid by the condemnation of said lands for the use of the company as they may be specified in the said writ of ad quod damnum; and the same jury may act in one or more cases to be set forth in the same writ or separate writs of ad quod damnum as may be deemed most expedient and convenient, so as to render the cost of such proceedings as small as practicable. If any juror so summoned shall fail to appear according to the summons, without reasonable and sufficient excuse to be rendered at the next circuit court of his county, he shall be subject to a fine for such default, to be assessed by the presiding judge of said court, of not exceeding fifty dollars, for which judgment may be rendered against him in said court with costs; and the return of the sheriff or his deputy on the summons which may have been served on such juror, stating his failure to appear shall be evidence of the default; the sheriff, if he shall refuse or willfully fail to perform the duty required of him by this section, shall for every such refusal or willful neglect, be subject to a fine, to be assessed by the judge of the circuit court of his county presiding, of not less than ten nor more than fifty dollars. If any jurors who may be summoned as aforesaid fail to appear, or by reason of challenge for cause or otherwise fail to sit, the sheriff shall forthwith summons, if practicable, other competent jurors sufficient to complete the pannel; and if the jurors empaneled, a majority of whom shall be competent to render a verdict in each and every case, shall fail to render a verdict, a new jury shall be empaneled in all such cases as soon as practicable thereafter; and this shall be done as often as

Powers in procuring right of way more fully defined.

may be required until a verdict is had. When the empan-  
neling of the jury shall have been completed, they shall, as  
soon as practicable thereafter, proceed to enquire into the  
matter or matters submitted to their decision, and for this  
purpose shall hear all such testimony as to them may ap-  
pear material and pertinent to the matter in issue, having  
first taken the oath prescribed in the eleventh section of the  
act aforesaid; the jury may appoint one of their number to  
preside during the investigation, who shall have power to  
preserve order and to administer oaths to the witnesses, as he  
is empowered to do, or the oaths may be administered by  
any acting justice of the peace, all witnesses being re-  
quired to take the ordinary oaths or affirmation adminis-  
tered in courts of justice. When the jury shall have  
made sufficient enquiry, in their estimation, by inspec-  
tion of the premises, and by hearing testimony, or by  
other means, they shall proceed to render their verdict  
in accordance with the sense of the majority, which  
verdict shall be certified by the jurors assenting to it and  
attested by the sheriff or his deputy, and with the writ of  
ad quod damnum shall be returned to the clerk of the said  
circuit court, by whom it shall be filed and securely kept  
among the records of the court, and a certified copy thereof  
shall, when required, be delivered by the clerk to either  
party who may pay therefor at the rate of charges allowed  
for recording, which copy, in the event of the loss of the  
original papers, shall be sufficient evidence of the finding  
of the jury in the case, the clerk certifying that a writ of  
ad quod damnum had duly issued and annexing thereto  
the verdict of the jury as returned to him, certifying that  
it is a true copy of the verdict, and also setting forth in his  
certificate (if not stated in the verdict) a description of the  
lands to which the verdict applies; every verdict thus ren-  
dered and returned, so soon as the damages which may be  
awarded to the owner or owners of the land condemned, if  
any damages be awarded, shall have been paid, (and the  
same, if no damages be awarded,) shall vest in said company  
absolutely all the right, title and interest in the lands speci-  
fied in the proceedings and condemned, which the person  
or persons with whom the trial was had or to whom notice  
thereof had been given, as hereinafter provided for, if claim-  
ing in their own right, may have or possess; or if not  
claiming in their own right, then all the right and title of  
the person or persons by him, her or them represented:  
Provided, however, that if either party should be dissatisfied  
with the finding of the jury, the dissatisfied party may ap-

Powers in pro-  
curing right of  
way more fully  
defined.



Powers in procuring right of way more fully defined.

peal to the next term of the said circuit court, after the finding, if as much as thirty days shall intervene between the finding of the jury and the holding of the said court; if not, then the term of the court next after, where the case shall be tried de novo by the court and jury, provided the appealing party shall give the opposite party as much as twenty days' notice of the appeal, and shall also before the clerk of said court enter into bond and security to be approved by him, payable to the party appealed against in a sum double the amount of what the clerk may estimate the probable cost, conditioned to pay to the party appealed against all the costs of the trial de novo, as well as the costs of the writ of ad quod damnum, in the event that the finding of the jury in the trial de novo shall not be more favorable to the appealing party than the finding of the jury under the writ of ad quod damnum in the first instance; this in cases of residents, where the person or persons whose claim or claims are involved, shall be non-residents or their residence shall be unknown, or the owner of the lands shall be unknown in either of these cases, the person or persons whose rights may be involved shall be allowed as much as six months to take the appeal authorized, reckoning from the date of the rendition of the verdict; in all other cases, the appeal shall be taken within thirty days after the date of the verdict, else the verdict shall be conclusive. The said company shall not be hindered or delayed in the prosecution of any portion of their work by or during the pendency of the proceedings authorized by this act; but no title shall be vested in the company until the proceedings shall have terminated and the company shall have paid the amount of damages which shall be awarded against it, as well as the costs which may be awarded against it; all payments required of the company under any proceeding which may be had, as by this act provided, may be paid directly to the party or parties entitled to receive payment, or may else be made to the judge of the probate court of the county in which the lands involved in the proceedings may lie, for the use of the party entitled, which payment the said judge shall be bound to receive and receipt for in his official character; and the judges of probate to whom such payments may be made shall be liable on their official bonds to account for and pay over to the parties entitled all sums so received: Provided always, That no proceedings for the condemnation of lands shall be had under the writ of ad quod damnum provided for until the notice hereinafter specified shall have been given; that is to say, written or print-

Proviso.

ed notices describing the lands proposed to be condemned, and designating the day and place appointed for the trial, shall be served upon the owner or owners of the land, if such owner or owners reside within the state and their residence be known, and be of full age and competent to act for themselves. but if the lands shall belong to the estate of a deceased person or persons, the notice to be served on the administrators or executors of such decedents; if to minors or persons non compos mentis, then service to be on his, her or their guardian guardians; if to any body corporate, then service to be on the president or principal officer or manager of such body corporate; and in cases of trust lands, service to be on the trustee or trustees; if the lands be under mortgage, service to be on the owner or owners of the land, as in other cases, as well as on the mortgagee; if school lands, service to be on the commissioners thereof; which notices it shall be the duty of the sheriffs of the proper county to serve in his official character or by his deputy, and the return of such sheriff or his deputy shall be evidence as any other official act. But in case the owner or owners of the land sought to be condemned for the use of said company shall not reside within the state, or the residence of such owner or owners shall be unknown, or the owner or owners shall be unknown, affidavit setting forth that the owner or owners are believed to be non-residents of the state, or that his, her or their residence is unknown, or that the owner or owners are unknown, according to the facts in each case, shall be made by some officer, agent or attorney of the company before the clerk of the county in which the lands sought to be condemned may lie; whereupon the clerk shall forthwith publish a notice in some newspaper published within the county in which the lands lie, if any paper be so published; if not, then in some newspaper published in an adjoining county describing the land proposed to be condemned and setting forth in substance the facts stated in the affidavit above required, and stating further that a jury will be empanelled at a place and on a day to be specified in the notice to assess the value of the lands sought to be condemned for the use of said company, which publication shall be made for at least six consecutive weeks prior to the time appointed for the trial and condemnation of the lands; which notices, when so published, shall be deemed equivalent to personal service; and the certificate of the clerk in his official character setting forth that publication of notice was made according to the requirements of this act, naming the news-

Powers in procuring right of way more fully defined.



paper in which the publication may be made, shall be sufficient evidence of such notice and publication, and which publication shall be equivalent to personal service. In cases requiring personal service of notice, the notices shall be served as much as ten days before the time appointed for the trial. In the event of appeal, as hereinabove provided, the trial shall be de novo in the circuit court, and the verdict of the jury and judgment of the court thereon shall vest in said company the lands sought to be condemned and included in the proceedings not, however, until whatever sum may be awarded against said company shall have been paid by said company. and if the trial de novo on the appeal shall not be more favorable to the appealing party than the original trial and verdict, the party appealing shall pay all the costs of the whose proceeding; the clerks, for the services required of them under this act, shall be allowed such compensation as they are allowed by the existing laws for similar services; the sheriff shall be allowed also the same compensation now allowed by law for similar services; jurors shall be allowed one dollar each for each day's service, and witnesses one dollar a day for attendance and the mileage now allowed witnesses in the circuit court; all which costs shall be paid by the company, except in cases where appeal is taken, in which cases the costs to abide the result of the trial in the circuit court as hereinabove provided.

Powers in procuring right of way more fully defined.

Sec. 6. Be it further enacted, That to remove all doubts which may exist as to the powers of the board of directors of said company, the said board of directors shall be and they are hereby fully authorized and empowered to issue bonds in the name of and on the faith and credit of said company in such form, and payable in such time, and bearing such rate of interest, (not exceeding eight per cent. per annum,) payable annually or semi-annually as the board of directors may prescribe; and the said board of directors shall also have full power and authority to negotiate, pledge, hypothecate or sell the promissory notes, or bonds, or obligations of any person or persons or any other body corporate of which said board of directors may have control; and to secure the payment of any bond or bonds or other obligation of said company, or the interest thereon, or to secure the fulfilment of any contract or duty or obligation of said company, full power and authority is hereby given to the board of directors of said company to pledge, in such form as the board of directors may think proper, by resolution, or mortgage, or deed of trust, or otherwise, all the means,

To issue bonds.

property and effects of said company, or any part thereof, including subscriptions to the capital stock of the company; and any pledge so made by said board of directors, whether by resolution, or mortgage, or deed of trust, or other form of contract, shall be valid and effectual to all intents and purposes. All duties required by this act, or the act to which this is an amendment, to be performed by a sheriff may be performed by the deputy of such sheriff.

Approved, February 10, 1852.

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[No. 224.]

# AN ACT

To incorporate the Creole Union Benevolent Society of the city of Mobile.

Whereas, a society has been formed in the city of Mobile under the name of "The Creole Union Benevolent Society of the city of Mobile," for the purpose of extending benevolence to the Creoles of the city of Mobile and their offspring who may be in distress, which laudable object it is expedient to promote; therefore---

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That F. Gomez, jr., president, J. Joseph, 1st vice-president, H. Garretta, 2d vice-president, T. W. Bernard, secretary, P. Laurendine, jr., treasurer, and the members composing the association aforesaid, and their successors, are hereby incorporated as a body politic and corporate in deed and in law by the name and style of "The Creole Union Benevolent Society of the city of Mobile," and by said name and style shall be known and recognised as a body corporate and shall have perpetual succession of officers and members.

Corporation.

Name and style.

Sec. 2. Be it further enacted, That the officers and members of said corporation and their successors shall have power to adopt, establish, ordain and make such rules, regulations, by-laws and ordinances, for the government of said society, and of the officers and members thereof, from time to time as they shall think proper for the purpose of effecting and promoting the objects for which the association was formed, and to alter the same at their pleasure; and shall and may have a common seal, which they may break and alter at pleasure, and shall have all the necessary powers to carry the object of said corporation into full effect: Provided, That such rules and regulations shall not be re-

Powers and privileges.

Proviso.



pugnant to the constitution and laws of the United States or the State of Alabama.

Sec. 3. And be it further enacted, That the said corporation, under the name and style aforesaid, shall be able and capable in law to have, hold, possess and enjoy to itself in perpetuity, or for any term of years, any estate, real or personal of whatever kind or nature, and to sell, alien or dispose of the same as the association may think proper; and by its name aforesaid may contract, sue and be sued, plead and be i pleaded, answer and be answered unto in any court of law and equity in this state, and have all the rights and privileges incident to bodies corporate: Provided, however, That the said corporation shall not have or possess property, real or personal, to a greater amount in the whole than twenty-five thousand dollars.

Approved, February 10, 1853.

Corporate powers.

[No. 225.]

AN ACT

To establish the McGehee College.

Whereas, the annual conference of the Methodist Protestant church of the Alabama district being deeply impressed with the importance of creating educational facilities, and having projected the plan of a college of a high character, and being desirous of procuring the aid and co-operation of other conferences of the same church, organizations having invited their aid and assistance; and inasmuch as the invitation has been cheerfully responded to by the Georgia conference, and as there is a reasonable expectation that Mississippi, Florida, South Carolina and others will follow the same example; and inasmuch as the liberality and public spirit of the people have been excited so that comparatively a few individuals have already subscribed the sum of thirty thousand dollars, which sum places the result of the enterprise beyond doubt; then for approving of this and all other educational enterprises, for the purpose of aiding in the objects contemplated, therefore---

Preamble.

Sec. 1. Be it enacted, by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a college be established at or near Robinson Springs, in the county of Autauga, to be known by the name and style of "The McGehee College," and to be under the control and supervision of the annual conference of the Methodist Protestant church, Alabama district.

Established.

Name and style.

Sec. 2. Be it further enacted, That George Rivers, Bolling Hall, A. Jackson, J. E. Jackson, B. S. Bibb, A. McKitchen, A. McGahee, R. J. Glenn, Edmond Harrison, A. C. Goodwin, A. A. Lipscomb, S. E. Norton, M. L. Abercrombie, F. Driscoll, W. Taylor, J. H. Howard, M. Howard, W. Little, Jno. Steadman, John Tipton, R. Robinson, L. C. Robinson, John Jenkins, John Steele, D. B. Smedley, Wm. Bellamy, A. Crumpler and Jas. H. Smith, and their successors, be and they are hereby created a body politic and corporate, to be known by the name and style of "The Trustees of the McGahee College;" and by that name shall have perpetual succession, shall sue and be sued, plead and be impleaded, make and receive titles to property, both real and personal, receive donations, gifts, legacies and bequests for the use of the college, and do such other things as bodies corporate may do and perform; and they may have and use a corporate seal: Provided, In making titles the same shall, under the order of the board of trustees, be signed by the president and countersigned by the secretary.

Trustees a body corporate and politic.

Name and style.

Corporate powers.

Proviso.

Sec. 3. Be it further enacted, That the board of trustees shall be elected by all of the conferences contributing to the college, under the following rules and regulations: Each conference shall be entitled to elect one trustee for every thousand dollars contributed within its bounds and collected or contributed by its authority: Provided always, That the Alabama conference shall have power to alter this ratio when in their judgment the interest of the college requires it; the trustees may be elected annually and shall continue in office until their successors are elected or appointed.

Trustees, how elected.

Sec. 4. Be it further enacted, That the power to fill vacancies in the board of trustees occurring by death, resignation, refusal to act, or removal from the bounds of the conference by whom they were elected, or any otherwise, shall be in the board itself; whenever a vacancy is so filled, it shall be the duty of the president of the board of trustees to notify the president of the conference from whence came the trustee of such election.

Vacancies in the board.

Sec. 5. Be it further enacted, That the board of trustees shall have power to elect from their own body a president, secretary and treasurer, and assign them their respective duties; also to elect a president of the college, professors and tutors and such other officers of such college as they may think proper and necessary, and fix their salaries and appoint their duties severally; which president, professors and tutors shall constitute the faculty of said college, with such

President of board.

President of college.



powers and duties as the board may prescribe or allow, who shall teach all the arts and sciences usually taught in similar institutions and confer all the degrees of literary and scientific distinction which can be conferred by other institutions of learning in the United States; the said board of trustees shall also have power to adopt a code of by-laws for the government of said college, and to alter or amend the same at pleasure; any five of the board of trustees shall form a quorum to transact ordinary business, but it shall require the assent of at least ten to authorize the purchase or sale of any property or to dispose of the means of the college in any other mode, or to elect the president, professors and trustees.

Sec. 6. Be it further enacted, That said board of trustees may procure an endowment for said college, which shall be applied for the support and benefit of the same.

College may be endowed.

Sec. 7. Be it further enacted, That in addition to the usual professorships in literature or science, any person or association of persons or any board of trustees may found a professorship of agriculture, civil engineering, the mechanic or fine arts, of law, of medicine, of theology, or whatsoever else may be deemed useful as a branch of science, or learning, or the arts, by endowing the same with the consent of the board of trustees and under such rules and regulations as may be agreed on between such persons or such association or board of trustees and the said board of trustees of the McGehee College.

Professorships of college.

Sec. 8. Be it further enacted, That the trustees of said college shall be empowered to establish, whenever they may deem it advisable, a Normal department for the education and practice of teachers, with all the requisite facilities thereunto; and that they shall be allowed, in addition to the ordinary college degrees, to give to all persons whom they may educate for the profession of teaching a special diploma certifying their capacity and qualifications for the duties of instruction.

Trustees may establish a normal department.

Sec. 9. Be it further enacted, That no misnomer or misdescription of said corporation herein created in any will, deed, gift, grant, devise or other instrument of contract or conveyance shall vitiate or defeat the same; but the same shall take effect in like manner as if said corporation were rightfully named: Provided, It be sufficiently described to ascertain the intention of the parties.

Provision in favor of college.

Sec. 10. Be it further enacted, That property belonging to such corporation to the amount of one hundred thousand dollars shall be forever exempt from all taxation.

Property exempt from taxation.

Sec. 11. Be it further enacted, That the selling of intoxicating liquors within three miles of said college is forbidden, and is hereby made an indictable offence; and every person convicted thereof shall be punished by imprisonment in the common jail of the county not less than thirty nor more than ninety days, and shall be fined not less than one hundred nor more than five hundred dollars for each and every offense so committed.

Retailing spirituous liquors within 3 miles of college, &c.

Sec. 12. And be it further enacted, That this act shall be a public act and shall be judicially taken notice of without being specially pleaded.

Declared a public act.

Approved, February 3, 1852.

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[No. 226.]

AN ACT

To incorporate the North Alabama College.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a college be established at or near the town of Huntsville, in the county of Madison, to be known by the name and style of "The North Alabama College," and to be under the supervision of the synod of West Tennessee, embracing that portion of this state usually called North Alabama.

College established.

Sec. 2. Be it further enacted, That Alfred H. Dashiell, Absalom Thompson, Robert C. Garrison, William O. Perkins, Edward McMillan, J. W. Baldrige, Frederick A. Thompson, Benjamin F. Mitchell, Alexander N. Cunningham, John M. Bright, Robert Hardin, Robert Fearn, John H. Zivley and their successors be and are hereby constituted a body politic and corporate, to be known by the name and style of "The Trustees of the North Alabama College;" and by that name shall have perpetual succession, shall sue and be sued, plead and be impleaded, make and receive titles to property, both real and personal, and do such other things as bodies corporate may do and perform; and they may have and use a corporate seal: Provided, That in making titles to property the same shall, under the order of the board of trustees, be signed by the president and countersigned by the secretary.

Trustees corporators.

Name and style.

Powers.

Sec. 3. Be it further enacted, That the powers to fill vacancies in the board of trustees occurring by death, resignation, refusal to act, removal from the bounds of the synod or otherwise, shall be in the board itself, subject to

Vacancies in board.



the approval of said synod; but any trustee so appointed by the board shall continue in office until rejected by the synod and another is appointed in his place by that judiciary: Provided, That all appointments by the board shall be void, unless notice thereof be given to the synod at their next meeting after the same is made.

Sec. 4. Be it further enacted, That at the next annual meeting of the synod of West Tennessee, the four trustees first named in the list herein before appointed shall go out of office, and their places shall be filled by election of the said synod; and thus from year to year in the order of the names as they stand in this list, four shall go out of office annually, whose places shall be filled as aforesaid; but should the synod in any year fail to elect four in the place of the four whose term of service expires in that year, then the same shall continue in office as before the expiration of their term of service until their places shall have been filled by the election of the synod; and all elections to fill vacancies in the board of trustees shall be entered on their minutes.

Regulation of  
board of trustees.

Sec. 5. Be it further enacted, That the board of trustees shall have power to elect from their own body a president, secretary and treasurer and such other officers as they may deem necessary, and assign to them their respective duties; also to elect professors and tutors and other officers of said college as they may think proper, and fix their salaries and appoint their duties severally, who shall constitute the faculty of said college, with such powers and duties as the board of trustees may prescribe or allow, who shall teach all the arts and sciences usually taught in similar institutions and confer all the degrees of literary distinction which can be conferred by other institutions of learning in the United States; the said trustees shall also have power to form and adopt a code of by-laws for the government of said college and to alter or amend the same at pleasure: Provided, The same be not inconsistent with the constitution or laws of this state or of the United States; any three of the board of trustees shall be a quorum to do business, but they shall not at any meeting make any contract incurring any pecuniary liability unless notice of said meeting has been given to every member of the board at least ten days previously, by written communication or publication in one or more of the newspapers in the town of Huntsville, to be sent to the trustees severally: Provided, This article shall not be so construed as to prevent a majority of the whole board when met at any time, without such notice, to create

Trustees may  
elect professors,  
tutors, &c., for  
said college.

Proviso.



any debts or incur any pecuniary liability not exceeding the amount of cash on hand and negotiable notes or bonds esteemed good then in their possession.

Sec. 6. Be it further enacted, That said board of trustees may procure an endowment for said college, the interest of which alone shall be applied to the support of the same: Provided, That said endowment fund, as well as the interest, shall be under the control and direction of said board of trustees.

May procure  
an endowment.

Sec. 7. Be it further enacted, That in addition to the usual professorships in literature, any person or association of persons or any board of trustees may found a professorship of agriculture, civil engineering, the mechanic or fine arts, of law, medicine, theology or whatever else may be deemed useful as a branch of science or learning, by endowing the same with the consent of the board of trustees and under such rules and regulation as may be agreed on between such person or such association of persons or board of trustees and the said board of trustees of the North Alabama College.

Professorship  
of agriculture  
may be founded.

Sec. 8. Be it further enacted, That no misnomer or misdescription of said corporation herein created in any will, deed, gift, grant, demise or other instrument of contract or conveyance shall vitiate or defeat the same; but the same shall take effect in like manner as if said corporation were rightfully named: Provided, It be sufficiently described to ascertain the intention of the parties.

Provision in fa-  
vor of college.

Sec. 9. Be it further enacted, That all property belonging to said corporation shall be forever exempt from taxation.

Exempt from  
taxation.

Sec. 10. And be it further enacted, That this act shall be deemed a public act and shall be judiciously taken notice of without being specially pleaded: Provided, That the value of lands acquired either by gift or purchase shall not exceed the sum of one hundred thousand dollars.

This declared a  
public act.

Approved, February 3, 1852.

[No. 227.]

AN ACT

To incorporate the Presbyterian Female Collegiate Institute at Talladega.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James Isbell, Henry A. Rutledge, William B. McClell-



lan, James C. Knox, Andrew Cunningham, Alexander White and Lewis E. Parsons, their associates and successors, be and are hereby constituted a body corporate and politic by the name and style of "The Presbyterian Female Collegiate Institute at Talladega;" and by that name they shall have full power and authority to have and use a common seal, to break and renew the same at pleasure, to sue and be sued, plead and be impleaded, to receive donations and make purchases of property, which shall enure to them and their successors in office, and to hold real and personal estate not exceeding in value fifty thousand dollars over and above the library and apparatus, to pass such by-laws and rules and regulations as may not be inconsistent with the constitution and laws of this state or of the United States.

Corporators.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the officers of said corporation shall consist of a board of seven directors, (one of whom shall be chosen president of the board,) a secretary and treasurer and such other officers as the stockholders may find it necessary to create; all of whom shall be chosen from among the stockholders of the school; and the said board of directors shall have the right, in connection with the principal teacher in said institution, to grant certificates, diplomas or other evidences of scholarship to meritorious pupils under their charge.

Officers of board.

Sec. 3. And be it further enacted, That the officers of said corporation shall be elected by the stockholders thereof, at such times and places and in the manner they may agree upon; and such officers when elected and qualified shall hold their respective offices until their successors are duly elected and qualified and ready to enter upon the discharge of their several duties.

How elected.

Approved, February 7, 1852.

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[No. 228.]

AN ACT

To incorporate the Masonic Female College at Auburn and the Glennville Female College.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Nathaniel J. Scott, John W. Jones, F. W. Dillard, J. W. Drake, H. T. McFarland, H. M. Lankford, J. W. Echols, Wiley W. Mason, J. W. Kidd, J. F. White, J. G. Whale, A. Frazier and W. T. Davis, and their successors in

Corporators.



office, be and they are hereby declared and constituted a body corporate by the name and style of "The Auburn Masonic Female College," under the control and direction of the masonic lodge at Auburn, Macon county, Ala.; and in their corporate capacity may sue and be sued, plead and be impleaded in all actions at law or in equity to which said corporation is a proper party.

Name and style.

Sec. 2. Be it further enacted, That said persons above named shall be and they hereby do constitute a board of directors for said college, and they shall continue in office for such length of time as may have been or may hereafter be prescribed by the masonic lodge at Auburn, in whom power exists to appoint their successors; the said corporation shall have power to purchase real, personal or mixed estate, and may hold or dispose of the same, and may receive donations for the benefit of said college; said corporation may have and use a common seal, and may alter or break the same at pleasure, and may make and pass all such laws, rules and regulations as are necessary for the government of said corporation: Provided, The same be not inconsistent with the laws and constitution of this state and of the United States.

Constituted a board of directors.

Powers.

Sec. 3. Be it further enacted, That the said board of directors and their successors shall have power to confer degrees on pupils or issue other certificates of scholarship, and may grant diplomas to graduates, and for the convenient accomplishment of this object, may make all needful rules in relation thereto.

May confer degrees.

Sec. 4. Be it further enacted, That it shall not be lawful for any person to sell spirituous liquors or wines at any point within two miles or less of said college building, except for medical purposes; and if any person shall sell spirituous liquors or wines in violation of the provisions of this section, such person shall be subject to indictment, and on conviction may be fined in a sum of not less than five hundred dollars nor exceeding one thousand dollars for each and every such offence: Provided, That the fourth section of this act shall not take effect until ratified by a majority of the legal voters residing within the limits specified in the preceding part of this act; which election the town authorities of Auburn are hereby authorized to hold on the first Monday in March next: And provided also, That the ratification of said section shall not have the effect to interfere with any licensed retailer until the expiration of the term for which his license was granted.

Sale of ardent spirits restricted.

Proviso.

Submitted to a vote of the people of Auburn.

Sec. 5. And be it further enacted, That E. E. Dubose,



A. M. Sanford, Randolph Mitchell, A. C. Mitchell, William Freeman, M. M. Glenn and John M. Raiford, their associates and successors in office, be and they are hereby declared and constituted a body corporate by the name and style of "The Glennville Female College," with all the rights, privileges and powers granted to the Auburn Masonic Female College under the provisions of this act; and that the persons in this section named shall be and are hereby constituted a board of trustees for the Glennville Female College, and shall hold their offices for so long a time as the by-laws of said corporation shall determine: Provided, The proviso to the fourth section shall not effect the Glennville Female College.

Approved, February 10, 1852.

Glennville Female College incorporated.

[No. 229.]

AN ACT

To incorporate the Lowndesboro' Female Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That M. F. Lewis, Thomas C. Hartwell, A. Doublass, H. V. Smith, Nathaniel Reese, H. V. Wooten, J. M. Howard, W. W. Graves, Jesse Ivey, Robert Russell, William Shelby and George Thomas, and their successors in office, be and they are hereby constituted and declared a body corporate by the name and style of "The Trustees of the Lowndesboro' Female Institute;" and by that name may sue and be sued, plead and be impleaded, answer and be answered unto in all kinds of actions both in law and equity; may receive donations, purchase property of any kind, whether real, personal or mixed, for the sole use and benefit of the said institute, the same to hold, use or dispose of at pleasure, and have and use a common seal; they shall further be empowered to make such rules, regulations and by-laws for the good government of the said institute as may be necessary, the same not be repugnant to the constitution of the United States or of this state.

Approved, January 23, 1852.

Trustees incorporated.

Name and style.

Powers.

[No. 230.]

AN ACT

To incorporate the Gaston Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

convened, That Pleasant White, Matthew A. Marshall, Archibald Hall, T. R. Crews, and Dr. J. W. Carrigan, and their associate stockholders of the male and female institute at Gaston, Sumter county, be and they are incorporated and constituted a body politic in deed and in law, and may sue and be sued in the manner hereinafter prescribed.

Corporators.

Sec. 2. Be it further enacted, That the stockholders shall have power to elect annually as hereinafter provided, on the first Monday in February of each and every year, a board of trustees to manage and superintend the affairs of the institute hereby established; and the trustees so elected shall be styled "The Trustees of the Gaston Institute;" and in that name the stockholders shall be able and capable in law of suing and being sued, to plead and be impleaded, answer and be answered in any of the courts of this state, and in that name shall do and perform all other acts which are incident to bodies corporate.

Stockholders shall elect board annually.

Sec. 3. Be it further enacted, That the stock of said institution shall consist in shares of fifty dollars each, and shall be entered in a book kept by said corporation, in which shall be recorded the names of the stockholders with their several amounts of stock annexed, which stock shall be transferable by assignment on the book in which the names of the stockholders are registered. The stockholders shall meet on the day mentioned as aforesaid, or at such other times as shall be agreed on, by giving reasonable notice, and shall elect such number of trustees as they may deem proper and in the following manner: Each stockholder shall be entitled to one vote for each share of stock held by them: Provided, That any stockholder may vote in person or by proxy, under such other rules and regulations as a majority of the stockholders in value may see proper to adopt: Provided, a majority of the stockholders in value, either in person or by proxy, shall be necessary to transact business at all times.

Stock.

Sec. 4. Be it further enacted, That the trustees elected under the provisions of this act shall hold their office for one year or until their successors are elected; said trustees shall have power to make all by-laws and rules for the government of said institute. The trustees now in office shall continue until the first election of trustees under the provisions of this act, and all vacancies which may occur in the board of trustees shall be filled as the stockholders shall prescribe.

Trustees, their term and powers.

Sec. 5. Be it further enacted, That the said stockholders shall be able and capable in law to receive donations to

Powers of stockholders.



purchase and hold real and personal estate to the amount of fifty thousand dollars, and may sell and dispose of the same, and may receive titles to real estate in the name of the trustees and their successors in office.

Sec. 6. Be it further enacted, That the said board of trustees shall elect from their number a president, secretary and treasurer, and prescribe the duties of each, requiring the treasurer to enter into a sufficient bond, payable to the president and his successors in office, for the faithful discharge of the duties of his office; said trustees shall keep a record of their proceedings, which shall be at all times open to the inspection of any stockholder. It shall be the duty of the trustees for the preceding year, at the annual meeting of the stockholders, to exhibit a clear and distinct statement of the affairs of the institution for the information of the stockholders, make and declare such dividends as the stockholders may deem proper of the net profits arising from the resources of said company after deducting the necessary current expenses, and shall divide the same among the proprietors of the stock of said company in proportion to their respective shares.

Organization of  
board of trustees.

Sec. 7. Be it further enacted, That if any of the stockholders shall fail to pay the amount of his instalment, or any portion thereof, under the articles of subscription, and default shall be made thereon for thirty days, the said trustees shall have authority to proceed, on giving ten days' notice of the time and place of sale, by notice posted up at the door of the post office in the town of Gaston, to sell said shares on which default has been made at public auction at the door of said post office to the highest bidder; and upon such sale said share or shares so sold shall be divested out and be forfeited by the holder thereof and belong to and be vested in the purchaser thereof to all intents and purposes as if the same had been originally subscribed by him, and on the books of said institution shall be entered a minute of said sale.

Payment of  
stock.

Sec. 8. Be it further enacted, That the president of the board of trustees shall have power to call a meeting of the stockholders at any time, stating in the call the business to be transacted; and no other business shall be transacted at such called meetings: Provided, That at such called meetings a majority of stockholders in value shall have power to remove any of the trustees or commissioners and appoint others in their stead.

Called meetings.

Sec. 9. Be it further enacted, That said stockholders shall have power to appoint a board of commissioners

Building com'r  
shall be appointed.



whose duty it shall be to contract for and superintend the construction of suitable buildings of said institution and to contract for and purchase suitable lots or tracts of land for the same, securing the titles in the name of the trustees and their successors in office.

Sec. 10. Be it further enacted, That said board of trustees may appoint such professor or professors or organise such faculty for the superintendence of said institution as to them may seem necessary; they may fix the rates of tuition and make such rules and regulations and prescribe such form for the granting certificates, diplomas or other evidence of scholarship as they may choose.

Professors may  
be appointed.

Sec. 11. Be it further enacted, That it shall not be lawful for any person or persons to retail or vend ardent or intoxicating liquors within two miles of either male or female department of said institution; and any person or persons so offending, directly or indirectly, shall forfeit and pay the sum of five hundred dollars, recoverable before any court having competent jurisdiction thereof, one-half to the prosecutor and the other half to be paid into the county treasury.

Retail of spirit-  
uous liquors  
prohibited.

Sec. 12. And be it further enacted, That all rules and regulations heretofore adopted by said stockholders shall be valid to all intents and purposes, and may be enforced or revoked in the same manner as rules and regulations hereafter to be adopted; and in all contracts or promises heretofore made or entered into shall be as binding upon said corporation as though the same was made and entered into subsequent to the passage of this act; and in all contracts heretofore entered into by said stockholders or under their authority, they may sue or be sued in the same manner as though the same were entered into after the passage of this act.

Rules hereto-  
fore adopted  
declared valid.

Approved, February 4, 1852.

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[No. 231.]

AN ACT

To incorporate the Dadeville Masonic Female Seminary.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Levi Turner, Joseph Johnson, J. T. Shackelford, P. M. Sheppard, John E. Pearson, William W. N. Mitchell, Leroy Gresham and John G. Smith, together with the W. M. of Tohopeka Lodge, No. 71, and the E. E. M.

Corporators.



1. of the Dadeville Chapter, No. 45, and their successors in office, be and they are hereby declared a body corporate by the name and style of "The Trustees of the Dadeville Mahan Female Seminary, of Tallapoosa county, Alabama;" and as such may sue and be sued, have and use a common seal, elect one of their own members as president, elect or appoint all such other officers as may be necessary, elect or appoint professors and teachers as they may choose and for such term of time as they may deem advisable, and do all other acts for the good of said institution which may not be inconsistent with the laws of this state.

Name and style.

Towers.

Sec. 2. Be it further enacted, That said corporate body, for the exclusive right and benefit of said institution and the promotion of its object and thereby the encouragement of learning, may have power to erect buildings, borrow money, accept of and hold property, both real and personal, by purchase, donations, grants or bequests, and sell and dispose of the same as natural persons in like cases may do under the direction of said lodge and chapter.

Buildings may be erected.

Sec. 3. Be it further enacted, That said board of trustees, or a majority of them, may pass a system of rules or by-laws for their own government, prescribing their various duties and offices for all matters concerning the interest of said institution.

Rules may be adopted.

Sec. 4. Be it further enacted, That when any vacancy occurs by death, resignation or otherwise, it shall devolve on Tohopeka Lodge, No. 71, and the Dadeville Chapter, No. 45, at the first communication after being notified of such vacancy, to fill the same by appointment; and those filling such vacancies by such appointment shall have equal power and privileges as the other trustees.

Vacancies.

Sec. 5. Be it further enacted, That said lodge and chapter shall be judge of competency of said trustees, and shall have the power of removal when it is deemed important to the interest of the institution.

Power of lodge and chapter.

Sec. 6. Be it further enacted, That when said trustees shall have employed or elected a principal teacher, they may give him the right to select assistant teachers, or they may reserve the exercise of that power to themselves by their own election, as they may consider best for the good of the institution.

Principal teachers may select assistants.

Sec. 7. Be it further enacted, That said trustees shall at all times be under the direction and supervision of said lodge and chapter.

Trustees.

Sec. 8. Be it further enacted, That when said principal shall be placed in charge of said institution, it shall be law-

Power of principal.



ful for him to grant diplomas, confer degrees and give evidence of scholarship in like manner and to the same extent as other like institutions in this state are by law authorized to do; and may cause to be made a common seal for said institution and affix the same to diplomas, degrees or evidences of scholarship, which shall require only the said seal and signature of said principal for the time being to make them valid to all intents and purposes as other degrees and diplomas.

Sec. 9. Be it further enacted, That the trustees of said institution shall be annually elected at the same time the officers of Tohopeka Lodge, No. 71, and the officers of the Dadeville Chapter, No. 45, are elected, five of which shall be elected by Tohopeka Lodge, No. 71, and three by the Dadeville Chapter, No. 45.

Trustees elected annually.

Sec. 10. Be it further enacted, That the property of this institution now in hand, or which may hereafter be acquired, shall be the property of Tohopeka Lodge, No. 71, and Dadeville Chapter, No. 45, according to the amount invested by each respectively.

Property vested.

Sec. 11. And be it further enacted, That all the powers and privileges by this act conferred on Levi Turner, Joseph Johnson, J. T. Shackelford, F. M. Sheppard, John S. Pearson, William M. Mitchell, Leroy Gresham and John G. Smith, and the M. M. of Tohopeka Lodge, No. 71, and the M. E. A. P. of the Dadeville Chapter, No. 45, are hereby conferred on Littleberry W. Mason, John B. Caldwell and William C. Davill and their associates, stockholders in the Wilcox Female Seminary in Wilcox county, and the trustees of said seminary by said stockholders from time to time appointed.

Corporate powers conferred on Wilcox Female Seminary.

Approved, February 3, 1852.

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[No. 232.]

AN ACT

To change the corporate name of the Central Masonic Institute of the State of Alabama, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the corporate body heretofore existing and known by the corporate name and style of "The President and Trustees of the Central Masonic Institute of the State of Alabama," shall hereafter exist and be known by the corporate name and style of "The President and Trustees

Name changed.



of the Masonic University of the State of Alabama," and that all rights, privileges and immunities, as well as all contracts, debts and liabilities which have heretofore been enjoyed by or have attached to the president and trustees of the Central Masonic Institute of the State of Alabama, shall for the future be enjoyed by and be attached to the president and trustees of the Masonic University of the State of Alabama.

Approved, February 5, 1852.

Powers and liabilities transferred.

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[No. 233.]

AN ACT

To incorporate the East Alabama Female Institute at Talladega.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Green J. McVee, Alexander J. Cotton, John M. Moore, Jacob J. Bradford, Samuel H. Dixon, John T. Morgan, James B. L. Huey, Allen J. Weathers and Robert S. Jenison, the present board of trustees of the East Alabama Masonic Female Institute, at Talladega, and their successors in office, be and are hereby incorporated and created a body politic under the corporate name of "The East Alabama Masonic Female Institute."

Trustees incorporated.

Name and style.

Sec. 2. Be it further enacted, That the board of trustees for said corporation shall be elected annually by Clinton Lodge, No. 32, if free and accepted masons, at Talladega, and by the stockholders of said institute in the mode now prescribed by the constitution thereof, or in any other mode which may be hereafter provided in said constitution for said election, and that each board of trustees so elected shall hold their offices until their successors are elected.

Trustees, how elected.

Sec. 3. Be it further enacted, That said board of trustees shall have power from time to time to adopt such by-laws, rules and regulations not inconsistent with the constitution and laws of this state as they may deem necessary and proper for the successful management of said institute.

Powers of board.

Sec. 4. Be it further enacted, That said corporation be and the same is hereby authorized and fully empowered to hold, use and enjoy in fee-simple any property, real or personal, to the amount of one hundred thousand dollars; and to take and receive any donation of money or other property, or things of value, or any gift, bequest or devise of property whatsoever not exceeding the sum of one hundred thousand dollars.

Corporate powers of board to hold property.



Sec. 5. Be it further enacted, That said corporation shall have full power to sue and be sued, to plead and be impleaded in any of the courts of law or equity of this state, and to make contracts and to execute deeds and receipts, acquittances and disclaimers, and to do acts necessary to carry into effect the full provisions of this charter, and to establish a school for the education of females, and to conduct and control the same, under the corporate name of the East Alabama Masonic Female Institute.

Corporate powers.

Sec. 6. Be it further enacted, That the board of trustees shall not be held personally liable for the debts of said corporation, but the property of said corporation shall be held liable for the satisfaction of the same.

Liability of corporation.

Sec. 7. Be it further enacted, That the said trustees and their successors in office, or so many as shall be fixed on by their by-laws, shall have full power by the principal or professors of the said East Alabama Female Institute, to grant or confer such degree or degrees in the arts or sciences to any of the students of the said institute or to persons by them thought worthy, as are usually granted and conferred in other institutions of learning in the United States, and to give diplomas or certificates thereof, signed by them and sealed with the common seal of the trustees of the East Alabama Masonic Female Institute to authenticate and perpetuate the memory of such graduation.

Degrees may be conferred and diplomacy granted.

Sec. 8. And be it further enacted, That the stock subscribed to said institute shall consist of shares of one hundred dollars each, according to the present constitution thereof, and that Clinton Lodge, No. 58, of free and accepted masons, in Talladega, shall be entitled and is hereby fully authorized and empowered to hold the stock in said incorporation which said lodge held in said institute, according to the constitution thereof, before the passage of this act, or which said lodge may hereafter acquire.

Shares of stock.

Approved, February 9, 1852.

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[No. 231.]

AN ACT

To incorporate the Montevallo Male Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Edmund King, George D. Shortridge, John S. Storrs and Daniel B. Watrous, their associates and their successors in office, shall be and they are

Trustees incorporated.



heraby established a body corporate by the name and style of "The President and Board of Trustees of the Montevallo Male Institute;" and by that name shall have power to receive donations, borrow money, purchase, have and hold real estate, not to exceed in value the sum of twenty thousand dollars, and sell the same; to sue and be sued, plead and be impleaded, receive subscriptions of stock, recover all debts due or owing or belonging to said institution as property thereof.

Name and style.  
Powers.

Sec. 2. Be it further enacted, That the above named trustees shall have power to appoint a president, secretary and treasurer and such other directors or visitors as they may deem necessary, and enact all by-laws as may be expedient for the good order and well being of said institution, to prescribe the duties of each and to fill all vacancies.

Officers.

Sec. 3. Be it further enacted, That all subscriptions of stock under the articles of association of the Montevallo Male Institute shall accrue to the benefit of the board hereby incorporated by this act, and may be sued for, applied to use contemplated by this act.

Stock.

Sec. 4. Be it further enacted, That that all who have heretofore subscribed or shall hereafter subscribe stock in said institution shall be bound to pay the same in such installments as may from time to time be required by the trustees; and in default thereof, may be sued in any court having jurisdiction.

Payment of  
stock.

Sec. 5. Be it further enacted, That every person who shall subscribe the sum of two hundred dollars to said institution shall be entitled to the privileges of the institute free of charge for one pupil, for a full course of study in said institute for one pupil, and so on for a larger subscription.

Privileges of  
subscribers of  
\$200.

Sec. 6. Be it further enacted, That the amount necessary to build and furnish said institute shall be raised by voluntary subscriptions, and shall be divided into shares of twenty-five dollars, and shall be deemed personal property and may be negotiated, sold and transferred upon the books of the institute at the will of the holders.

Subscriptions  
for building.

Sec. 7. Be it further enacted, That the said board shall hold two meetings annually corresponding with the vacations; the annual meeting shall be the one for the transaction of business and for the election of officers, who shall hold their office for one year and till their successors are qualified.

Meetings of  
board.

Sec. 8. Be it further enacted, That the trustees shall,



for the speedy completion of said institute, employ teachers, prescribe a course of studies, collect fees for tuition, grant rewards, establish discipline and select a board of visitors, may at any time enlarge the buildings, increase the number of teachers and open books for additional stock.

Powers of trustees.

Sec. 9. And be it further enacted, That in voting in elections or otherwise, each stockholder shall have one vote for each share of stock he holds.

Elections.

Approved, February 10, 1852.

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[No. 235.]

AN ACT

To incorporate the Central Southern Mechanical and Literary Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That J. Bankston, W. C. Barnes, A. M. Kendrick, R. Edwards, J. A. Ryland, T. W. Riddle, E. Harberry, S. J. Thomas, W. T. Litchett, J. W. Jeter, their associates and successors, be constituted a body politic and corporate by the name of "The Trustees for the Central Southern Mechanical and Literary Institute;" said trustees and their successors may make contracts, may receive and hold, by purchase, gift, devise or in any other manner, may sell, convey, exchange or transfer in any manner land, estate, property or thing of value of any description, may sue and be sued, have a seal, may borrow or loan money or property, execute or receive assurances for payment thereof, shall have all the rights and privileges as a corporate body which pertain to either in their individual right.

Trustees incorporated.

Name and style.

Powers.

Sec. 2. Be it further enacted, That said trustees and their successors may at any time receive subscriptions for capital stock to create a fund for the support of schools and for the purchase of land and material necessary for mechanical and manufacturing purposes to such extent as they desire to establish in the county of Coosa; stock must be taken in shares of fifty dollars each share entitling the holder to one vote in all matters requiring a vote of the stockholders.

May receive subscriptions of stock.

Sec. 3. Be it further enacted, That the trustees may make rules and by-laws for themselves, the stockholders for forfeiting stock of defaulting subscribers, creating officers, employing teachers, superintendents of mechanical

May make rules.



department, may prescribe the mode their successors must be appointed, their term of office, and to do any thing necessary to carry out the object and provisions of this act of incorporation.

Sec. 4. And be it further enacted; That the property of said incorporation must be exempt from taxation; that no person must sell or dispose of intoxicating liquor within one mile of the location of the buildings for school or labor, and any person selling or disposing of intoxicating liquor within said distance must be indicted and punished in the same manner as prescribed by the statute of the State of Alabama for retailing without license.

Property exempt from taxation.  
Retail of liquor restricted one mile.

Approved, January 30, 1852.

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[No. 236.]

AN ACT

To incorporate the Orrville Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Wiley W. Thomas, James F. Orr, Henry Cobb, Edward S. Holloway, John McElray, James White, Felix G. Adams, Lewis B. Mesely, Abner Y. Howell, P. T. Goodall, James D. McElray, B. B. Cobb, John A. Morwood, Alfred Averzt, and their successors in office, be and they are hereby declared to be a body politic and corporate by the name and style of "The Trustees of the Orrville Institute of Alabama;" and as such shall be capable and liable in law to sue and be sued, to plead and be impleaded, and shall be authorised, with the consent and concurrence of the principal, to-wit: James R. Malone, but not otherwise, to make such by-laws and regulations as shall be proper for the government of said institution: Provided, That such by-laws and regulations are not repugnant to the constitution and laws of this state; and may have and use a common seal; but the power to appoint officers, fix salaries, &c., shall be vested in said trustees jointly with the principal: Provided, further, In case the present principal, James R. Malone, shall sell his interest to said trustees, then they shall have full and exclusive control of said institution.

Trustees incorporated.

Name and style.

Powers.

Sec. 2. Be it further enacted, That said trustees or body corporate shall have power to erect buildings for the purpose of educating youth of both sexes, to borrow money, not exceeding ten thousand dollars, by mortgage of their corporate property or otherwise, to accept of all manner of

Powers in erecting buildings.



property, real, personal or mixed, all donations, gifts and grants which may be hereafter made or granted to the said institution or which may be hereafter conveyed or transferred to them or their successors in office, to have and to hold the same for the use, benefit and behoof of said institute, and to sell and dispose of the same: Provided, The same does not exceed in value one hundred thousand dollars.

Sec. 3. Be it further enacted, That when any vacancy may occur by death, resignation or otherwise, of any of the trustees of said institute, the survivors or residue of said trustees shall fill the same in such manner as shall be pointed out by the by-laws and regulations of said corporation.

Vacancies.

Sec. 4. Be it further enacted, That the principal, James R. Malone, and his associate teachers and their successors in office, (who shall be styled the Faculty of Orrville Institute,) shall have power to organise said institute upon a regular college basis, and the same is hereby declared to be a college proper; and said faculty of said institute shall be empowered to confer degrees, honors, grant diplomas and have all the rights, privileges and immunities of all regular colleges.

Of the Faculty,  
powers, &c.

Sec. 5. Be it further enacted, That all property bound by said trustees in their corporate capacity shall be vested in such body corporate in perpetuity, for the use of said institution and for the purposes of education.

Property vested.

Sec. 6. And be it further enacted, That the present board of trustees, as it is now organised, (to-wit: Wiley R. Thomas being president, James F. Orr, vice-president, Henry Cobb, secretary,) shall be considered as duly organised and competent to meet and transact any business appertaining to their duties as trustees from and after the passage of the act.

Present board.

Approved, February 9, 1852.

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[No. 237.]

AN ACT

To incorporate the East Alabama Female College and the Bascomb Female Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a female college be and the same is hereby established in the town of Thakegee, in the county of Macon, to be known as "The East Alabama Female College."

College established.  
Name.



Sec. 2. Be it further enacted, That William P. Shelton, Boling A. Blakey, Henry A. Howard, Sampson Lanier, John C. H. Read, William C. McIver, William W. Battle, George W. Gunn, Erastus W. Jones, Nathaniel W. Cocke, and James M. Newman, and their successors, be and they are hereby constituted a body politic and corporate, to be known by the name and style of "The East Alabama Female College;" and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded as natural persons, make, seal, deliver and receive titles to property both real and personal, may receive donations, bequests and devises of real and personal property, choses in action and money, and do such other acts as bodies corporate may do and perform needful or necessary to the establishment and perpetuity or prosperity of said college; and they may have and use a common seal with such device or devices as they may deem meet, and the same at pleasure revoke: Provided, That in making titles to real property under order of the board of trustees the same shall be signed by the president and countersigned by the secretary.

Corporators.

Name and style.

Powers.

Sec. 3. Be it further enacted, That the board of trustees shall have power to elect from their own body a president, secretary and treasurer and such other officers as they may deem necessary to a proper organization and management of the trust herein confided, and assign to each their respective duties; they shall also have power to fill all vacancies which may occur in the board by death, resignation or otherwise, subject to the approval of the Tuskegee Association: Provided, That all the appointments made by the board shall be deemed valid until rejected by the association; and it is hereby made the duty of the board to give notice to the association at each annual convention of all appointments to fill vacancies in their own body.

Organization of board.

Vacancies.

Sec. 4. Be it further enacted, That said board shall further have power to elect professors, tutors and other officers of said college as they may think proper, and fix their salaries with such powers and duties severally and collectively as the board may prescribe or allow, and who shall constitute the faculty of said college, and who may instruct in all the arts and sciences usually taught in similar institutions, and may grant diplomas and confer all the degrees of literary distinction which can be conferred by other institutions of learning in the United States; the said trustees shall also have power to form or adopt a code of by-laws for the government of said college and for their own government, and to alter or amend the same at pleasure: Pro-

Powers of board.



vided, The same be not inconsistent with the constitution or laws of the State of Alabama; and three of said board of trustees shall be a quorum to do business, but they shall not at any meeting make any contract incurring any pecuniary liability unless notice of such meeting has been given to three-fourths of the members of said board at least three days previous thereto: Provided, This article shall not be construed so as to prevent a majority of the whole board at any meeting without such notice to create any debt or incur any pecuniary liabilities not exceeding the amount of cash on hand and notes esteemed good then in their possession.

Sec. 5. Be it further enacted, That said trustees may procure an endowment for said college or any professorship therein, the interest of which shall be alone expended; Provided, Said fund and interest shall be under the control and direction of the trustees.

May procure  
endowment.

Sec. 6. Be it further enacted, That no misnomer or misdescription of said corporation herein created, in any will, deed, gift, grant, devise or other instrument of contract or conveyance, shall in any wise defeat or vitiate the same; but the same shall take effect in like manner as if said corporation were rightfully named: Provided, It be sufficiently described to ascertain the intention of the party or parties to such instrument.

Provision in fa-  
vor of College.

Sec. 7. Be it further enacted, That the said corporation may acquire, own and be possessed of property real and personal, not to exceed in value the sum of one hundred and thirty thousand dollars; and the college grounds, not to exceed fifteen acres, with the improvements thereon, together with all the money and personal property of whatsoever kind the same may be, shall be forever exempt from taxation.

Corporation  
may hold prop-  
erty.

Sec. 8. Be it further enacted, That it shall not be lawful for any person or persons, from and after the first day of March next, to sell or vend within three miles of said college edifice any spirituous liquors or any kind of drink that is calculated to produce drunkenness, in any quantity or quantities whatever, except the same be for medicinal purposes, to be prescribed by a physician, or for sacramental purposes, under a penalty of forty dollars for each offence, recoverable before a justice of the peace by quantum suit, which suit shall be governed by and subject to the rules governing such actions; and in addition thereto shall for each violation be deemed guilty of the offence of retailing without license and subject to be proceeded against and

Sale of ardent



punished therefor; no license shall be received in justification or extenuation of any suit or indictment under this act.

Sec. 9. Be it further enacted, That this act shall be deemed and considered in law a public act and shall be judicially taken notice of without being specially pleaded.

This a public act.

Sec. 10. Be it further enacted, That all acts, contracts, and engagements of said board made and entered into by virtue of an organization in pursuance of the third section of an act approved March 3d, 1848, be and the same are hereby legalised and made valid to all intents and purposes as if the same had been had or made under this act.

Acts of board legalised and confirmed.

Sec. 11. Be it further enacted, That Pleasant B. Robinson, Thomas S. McColley, William A. Thompson, William Sanford, Robert S. Brandon, William R. Moore, Benjamin S. Pope, Daniel B. Turner, William D. F. Lawrie, Irvin Windham, Richard Angell, John B. Trotman, Archibald E. Mills, Robert A. Young, David F. Bibb and William McDowell, and their successors in office, be and they are hereby constituted and declared a body corporate by the name and style of "The Trustees of the Bascomb Female Institute," which institution shall be located in or near the town of Huntsville, in the county of Madison.

Trustees of Bascomb Female Institute incorporated.

Sec. 12. And be it further enacted, That all the powers, privileges, immunities, restrictions and exemptions conferred upon the trustees of the East Alabama Female College, and to which they are subjected by this act, be and the same are hereby conferred upon the trustees of the Bascomb Female Institute, who are also subjected to the same restrictions imposed upon the trustees of the East Alabama Female College and all the provisions of this act, so far as the same are not inapplicable, except the eighth and tenth sections, be and the same are hereby extended to the trustees of the Bascomb Female Institute.

Powers conferred.

Approved, January 27, 1852.

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[No. 232.]

AN ACT

To incorporate the Baptist Female Institute at Moulton.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Isaac W. Owen, Amos Jarnan, Levi F. Warren, Thomas Ashford, Charles Gibson, Aaron A. Lewleson, Absolon L. Stovall, John H. Edmiston, Jackson Gunn, Jess

Trustees incorporated.



Michaux, James Armstrong, Aggleston D. Townes and Thomas M. Peters, heretofore appointed trustees of the Baptist Female Institute at Moulton, by the Muscle Shoals Association of Baptists, and their successors in office, be and they are hereby constituted a body corporate under the name and style of "The Trustees of the Baptist Female Institute at Moulton."

Name and style.

Sec. 2. Be it further enacted, That the number of said trustees shall be thirteen, and they shall be elected or appointed by said Muscle Shoals Association of Baptists in such manner and for such length of time as said Association of Baptists shall think proper: Provided, That the above named persons and their successors shall always continue in office until their successors shall be duly elected or appointed in their stead: And provided further, That in case said Association of Baptists shall neglect or in any wise omit to fill vacancies that may at any time occur among the said trustees, then the said trustees, a majority of the number then in office concurring, may fill such vacancy or vacancies as may happen in their body until the next regular election or appointments of trustees as shall be made by said Association of Baptists.

Board of trustees, No., term, &c.

Sec. 3. Be it further enacted, That the said trustees and their successors shall have power to elect from time to time one of their own members as president, and also a secretary and treasurer, to define the duties of each, and exact from the treasurer a bond for the faithful performance of his duty; they shall also have power to procure and select suitable and competent teachers, prescribe the course of study, fix terms of tuition and grant diplomas of scholarship in and for said institute in such manner as they may deem proper; and they shall have full and ample power to pass all such by-laws, rules and regulations that they may esteem necessary and proper for the management and government of said corporation and school: Provided, The same be in conformity with the constitution and laws of this state and the constitution of the United States.

Their powers.

Sec. 4. Be it further enacted, That said corporation, by its corporate name, shall be and is hereby made capable of suing and being sued, pleading and being impleaded in law or equity, of contracting and being contracted with, of taking and receiving subscriptions and donations of money or any kind of property, whether real or personal, for the use of said institute, of owning and holding all moneys or property that may have been given or may hereafter be given or subscribed in trust for the use of said institute to

Corporate powers and privileges.



an amount not exceeding the sum of twenty-five thousand dollars, free and exempt from all taxation and payment of taxes so long as the same shall be used under the provisions of this act; and said trustees shall have power to receive deeds and titles for the same, and to sell and convey the same, and to make and enter into all such contracts, agreements, and make all such investments as they may deem needful and proper to carry out the provisions of this act.

Sec. 5. Be it further enacted, That a majority in number of said trustees shall constitute a quorum for the transaction of all ordinary business; but it shall require the concurrence of two-thirds of their number to make choice of the principal teacher in said institute or to dispose in any manner of the moneys and property of the said corporation above the value of one hundred dollars.

Quorum for business.

Sec. 6. And be it further enacted, That it shall not be lawful for any person or persons to retail or vend ardent or intoxicating liquors within three miles of said institute; and also that no nine or ten pin alley, or alley of any number of pins, shall be allowed with same penalty annexed; and any person or persons so offending shall forfeit and pay the sum of one thousand dollars, recoverable before any court having competent jurisdiction thereof, one-half to the prosecutor and the other half to be paid into the county treasury.

Sale of ardent spirits within 3 miles restricted

Penalty for so doing.

Approved, February 7, 1852.

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[No. 239.]

AN ACT

To incorporate the Burnesville Male and Female Academy.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That there shall be established in the county of Dallas and village of Burnesville, a male and female academy to be called and known as "The Burnesville Male and Female Academy;" and that Atherton Andrews, H. W. Randle, Benajah King, Francis A. Dubose, W. B. Andrews, German Burnes, W. H. Gardner, C. T. Gardner, John West, W. B. Hall, Job Self and J. E. Burnes, and their successors in office, be and the same are hereby declared a body politic and corporate by the name and style of "The Trustees of the Burnesville Male and Female Academy;" and as such shall be capable and liable in law to sue and be sued, to

Established.

Trustees.

Name and style.



plead and be ispleaded; and shall be authorised to make such laws and regulations as shall be necessary for the government of said academy: Provided, That such by-laws and regulations are not repugnant to the constitution and laws of the state or of the United States; and for that purpose may have and use a common seal and appoint such officers and teachers as they may think proper, and remove the same from office for improper conduct or neglect of duty.

Corporate powers.

Sec. 2. Be it further enacted, That when a vacancy shall occur by death, resignation or otherwise, of any of the trustees of said academy, the survivors or residue of said trustees, or a majority of them, shall fill the said vacancy in such manner as shall be pointed out by the by-laws and regulations of the said corporation.

Vacancies.

Sec. 3. And be it further enacted, That from and after the approval of this act, it shall not be lawful for any person or persons to retail or vend ardent or intoxicating liquors within two miles of said academy; and any person or persons so offending shall forfeit and pay the sum of two hundred dollars, recoverable before any court having competent jurisdiction thereof, one-half to be paid into the county treasury and the other half to be paid into the treasury of said academy, to be disposed of for the benefit thereof.

Sale of ardent spirits within 2 miles prohibited.

Penalty for retailing.

Approved, January 30, 1852.

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[No. 240.]

AN ACT

To incorporate the Brooklyn Male and Female Academy, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Caleb Johnson, George W. Nerk, Asa Johnson, C. W. Snowden, Samuel Feagin, Elijah McCrary and George E. Dubose are hereby constituted trustees of the Brooklyn Male and Female Academy.

Trustees.

Sec. 2. Be it further enacted, That said trustees, or a majority of them, are authorised to make such by-laws, rules and regulations providing for the selection of their successors, the terms of their offices and for the management and conducting said academy as they may think proper, not inconsistent with the laws of the State of Alabama.

Powers.

Sec. 3. Be it further enacted, That at any time after



the passage of this act, the said trustees, or a majority of them, may cause to be submitted to the legal voters living within one mile of said academy, whether spirituous liquors may be sold within one mile thereof, after giving thirty days' notice of the same; which election shall be conducted by any three voters living within one mile of said academy, who shall be appointed by the judge of probate for Conecuh county; every legal voter within one mile of said academy may vote either "opposed to the sale of spirituous liquors" or "in favor of the sale of spirituous liquors;" the result of which election shall be certified to said judge of probate by those conducting the election.

Questions of re-  
tail of ardent  
spirits may be  
voted on.

Sec. 4. Be it further enacted, That if upon such election a majority shall vote "opposed to the sale of spirituous liquors," it shall not be lawful for any person to sell spirituous liquors to any person within one mile of said academy during the continuance thereof: Provided, This act shall not prohibit any person or persons who may now be engaged in selling spirituous liquors under a license from selling the same until after the expiration of the license now issued.

Effect of elec-  
tion.

Sec. 5. Be it further enacted, That if any person or persons shall violate the provisions of the fourth section of this act, he or they shall forfeit and pay the sum of five hundred dollars, recoverable before any court having competent jurisdiction thereof, one-half to the prosecutor and the other half to be paid into the county treasury.

Penalty for vi-  
olating provi-  
sion of 4th sec-  
tion.

Sec. 6. And be it further enacted, That all laws and parts of laws inconsistent with the provisions of this act be and the same are hereby repealed.

Repeal.

Approved, February 7, 1852.

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[No. 241.]

AN ACT

To incorporate the Mill Town Male and Female Academies in the county of Chambers.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William E. Melton, Andrew J. Dozier, P. G. Meri-  
nether, Jesse E. Robinson, Dr. G. F. Taylor, A. E. Wood,  
William W. Fulmer, Thomas B. Royston and William  
Griggs, Esq., and their successors in office, be and they are  
hereby created a body politic and corporate in deed and in law  
by the name of "The President and Trustees of the Mill

Corporators.

Name and style.



Lowell Hall and Female Academy;" and by that name shall be able and capable in law and in equity to sue and be sued, and shall have power to hold real and personal estate in perpetuity in trust for the use of said seminaries, to receive donations and bequests, and to make contracts, and to do all other things necessary and proper for the promotion of education in said schools.

Powers.

Sec. 2. Be it further enacted, That the persons named and their successors, or a majority of them, shall have power to appoint a president and secretary from their own body, a treasurer, visitors and such other officers as they may deem necessary, and to prescribe the duties of each and the term each shall serve and the penalties for breach of duty.

Board.

Sec. 3. Be it further enacted, That when any vacancies occur in the board the same shall be filled by two-thirds of those remaining in office, including the president; and it is hereby declared that removal from the county, voluntary absenting from the meetings of the board for six months in succession, being convicted for the commission of any disgraceful crime, or being habitually intemperate, shall be causes for declaring the office of president or trustee vacant; and the board may, by a vote of two-thirds of the trustees, including the president, declare the office of president or trustee vacant for either of the causes aforesaid and proceed to fill the vacancy in the manner as if the vacancy was occasioned by natural death.

Vacancies.

Sec. 4. Be it further enacted, That the said president and trustees, as soon as they shall be duly organized under this charter, shall have power to direct and control all buildings and other improvements for the use of said institutions, either by themselves or a committee, or agents under them; and all the property, real and personal, shall be hereby vested in them and their successors in office; Provided, however, That no change shall be made in the plan of building now adopted by the building committees appointed by the general subscribers to the improvements nor in any contract made by said committee; but the plan or plans of building and all contracts made with reference thereto shall be adopted by the president and trustees under this act.

Powers of board after organization.

Sec. 5. Be it further enacted, That all property donated for the use of said seminaries or either of them, and all subscriptions heretofore made for the purpose of building the necessary houses and making other improvements, together with purchasing the real estate for the use and benefit thereof, shall by operation of this act vest in the said trustees as if the conveyance and subscriptions were ex-

Property donated vests in trustees.



pressly made to them; and for any injury to the real estate and for the subscriptions already made, the said president and directors shall have power to sue and recover at law in their corporate name; and they are hereby vested with power to demand the amount each person has subscribed from time to time as the same may fall due; and if the same due be not paid by the subscribers respectively, on the written order of the president being presented, a right of action shall exist in the said president and trustees and may be enforced for the sum or sums so ordered to be paid and refused, and so on until all be paid up by the subscribers respectively.

Sec. 6. Be it further enacted, That the president and trustees shall have power to establish the charges and rates of tuition in said schools from time to time, to establish such rules and by-laws as they may deem necessary and proper, extending to the president as well as to teachers and pupils and others connected with the said seminaries; they shall have power to remove a teacher at their discretion by a vote of two-thirds of the trustees, including the president, for good and sufficient reason.

Powers of  
board.

Sec. 7. And be it further enacted, That the lands, buildings and other property of said male and female institutions, not to exceed five thousand dollars, shall, while used for the purposes of education, be exempt from all taxation whatever.

Property ex-  
empt from taxa-  
tion.

Approved, February 10, 1852.

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[No. 242.]

AN ACT

To incorporate the Salem Male and Female Academy, in Jefferson county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Reuben Phillips, James Moldory, Thomas H. Owen, Thomas Moldory, O. Spencer, jr., James Haughey and Samuel A. Tarrant, and their associates, stockholders of Salem Male and Female Academy, at Salem, in Jefferson county, Alabama, be and they are hereby incorporated and constituted a body politic in deed and in law, and may sue and be sued in the manner hereinafter provided.

Stockholders  
incorporated.

Powers.

Sec. 2. Be it further enacted, That the stockholders shall have power to meet as hereinafter provided, on the first Monday in December, 1852, or at such other time as may be agreed on by a majority of the stockholders in interest,

Election of  
trustees.



to elect a board of trustees to manage and superintend the affairs of the institution hereby established; and the trustees so elected shall be styled "The Trustees of the Salem Male and Female Academy;" and in that name the stockholders shall be able and capable in law of suing and being sued, to plead and be impleaded, answer and be answered in any of the courts of this state, and that name shall do and perform all other acts which are incident to bodies corporate.

Name and style.

Power.

Sec. 3. Be it further enacted, That the stock of the said institution shall consist in shares of twenty-five dollars each, and shall be entered in a book kept by said corporation, in which shall be recorded the names of the stockholders with their several amounts of stock annexed, which stock shall be transferable by assignment on the book in which the names of the stockholders are registered; and the stockholders shall meet on the day mentioned aforesaid, or at such other time as may be agreed on, by giving reasonable notice, and shall elect such number of trustees as they may deem proper and in the following manner: Each shareholder shall be entitled to one vote for each share of stock owned by them: Provided, That any stockholder may depute any person in writing to vote for him or her by proxy.

Stock.

Sec. 4. Be it further enacted, That at the first election the said stockholders shall appoint a day for the annual election of trustees as aforesaid, and the trustees so elected shall hold their office one year or until their successors are elected; the stockholders shall have power to prescribe the duties of the trustees and to make all by-laws and rules for the government of said institution; they shall appoint all such officers as they may think necessary and prescribe their duties and liabilities. The trustees now in office shall continue until the first election of trustees under the provisions of this act, and all vacancies which may occur in the board of trustees shall be filled as the stockholders may prescribe: Provided, That in all cases it shall require a majority of stockholders in value to form a quorum for the transaction of any business.

Annual election of trustees.

Sec. 5. Be it further enacted, That the said stockholders shall be able and capable in law to receive donations, to purchase and hold real and personal estate to the amount of twenty thousand dollars, and may sell and dispose of the same; they may receive titles to real estate in the name of the trustees and their successors.

May receive donations.

Sec. 6. Be it further enacted, That the rules and regulations heretofore adopted shall be valid to all intents and

Rules heretofore adopted declared valid.



purposes, and may be enforced or revoked in the same manner as rules and regulations hereafter to be adopted; and in all contracts or promises heretofore made or entered into shall be as binding upon said corporation as though the same were made and entered into subsequent to the passage of this act; and on all contracts heretofore entered into by said stockholders, or under their authority, they may sue or be sued in the same manner as though the same were entered into after the passage of this act.

Sec. 7. And be it further enacted, That full power is given to the board as to the competency and number of their teachers and rates of tuition, as well as all the internal regulations; they may grant diplomas in the female department on adequate attainments, as well as certificates or other evidences of scholarship, and in short do any and every thing necessary and proper to further the objects of said literary institution or which other literary institutions of the like kind may lawfully do.

Powers of  
board.

Approved, February 10, 1852.

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[No. 343.]

AN ACT

To establish and incorporate a Male and Female Academy at Rehoboth, in the county of Wilcox.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Burwell Bennett, Henry Young and T. M. Price, and their successors in office, be and they are hereby constituted and declared a body corporate by the name and style of "The Trustees of the Rehoboth Male and Female Academy;" and as such may sue and be sued, have and use a common seal, elect one of their own number as president, and elect or appoint all such officers, professors or teachers as they may choose, and remove the same at pleasure, and in short pass or adopt all such ordinances, rules or by-laws as they may think advisable for the interest and good government of said institution which may not be inconsistent with the laws of this state.

Trustees incor-  
porated.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the said corporate body, for the exclusive benefit of said institution and the promotion of its objects and thereby the encouragement of literature, may have power to erect buildings, borrow money, by mortgage of their corporate property or otherwise, to accept of and hold property, real, personal or mixed, by

Power to erect  
buildings.



purchase, donations, grants or bequests, and to sell and dispose of the same as natural persons in like cases may do.

Sec. 3. Be it further enacted, That said trustees, or a majority of them, may as aforesaid pass a system of rules or by-laws not only for their own government but prescribing the times of election, the terms of service and pointing out the respective duties of their various officers; they may prescribe and regulate or alter at will from time to time the order, mode, kind and extent or branches of study and of learning to be taught and pursued in the institution; but in case of vacancies in the board from any cause, the survivors or residue, one or more, may fill the same by appointment; and they may prescribe in their by-laws what shall constitute a vacancy; full power is given to the board as to the competency and number of their teachers and the rates of their tuition, as well as all other internal regulations; they may grant diplomas on adequate attainments, as well as certificates or other evidences of scholarship; and in short do any and every thing necessary and proper to further the objects of said literary institution or which other literary institutions of like kind may lawfully do.

General powers  
of trustees.

Vacancies.

Sec. 4. And so it further enacted, That it shall not be lawful for any person or persons to retail or vend ardent or intoxicating liquors within three miles of said academy; and any person or persons so offending shall forfeit and pay the sum of two hundred dollars for every such offence, recoverable before any court having competent jurisdiction thereof, one-half to the prosecutor and the other half to be paid into the county treasury: Provided, Nothing herein contained shall be so construed as to prevent the use of ardent or intoxicating liquors by physicians for medicinal purposes.

Sale of ardent  
spirits within 3  
miles prohibit-  
ed.

Penalty for so  
doing.

Proviso.

Approved, February 9, 1852.

[No. 344.]

AN ACT

To incorporate the President and Trustees of the Mountain Home Female Academy in Lawrence county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Richard Jones, Philip Pointer, William Ellet, D. C. Ligon, James Donnel, Thomas Lyle, Samuel Elliott, Robert King, James M. Saunders, Richard W. Kirby,

Corporators.



A. S. Bently, J. B. Goode and William H. Watkins, and their associates and successors in office, be and they are hereby constituted a body corporate and politic in deed and in law by the name and style of "The President and Trustees of the Mountain Home Female Academy;" and by that name may sue and be sued, plead and be impleaded, answer and be answered unto in all kinds of actions both in law and in equity, may receive donations, purchase property of any kind, whether personal, real or mixed, for the rise and benefit of the said institution, the same to have and hold and dispose of at pleasure for the use above specified, and may have and use a common seal.

Name and style.

Powers.

Sec. 2. Be it further enacted, They shall be empowered to make such rules and regulations and by-laws for the government of the said Academy as may be necessary, the same not being repugnant to the constitution of the United States or of this state.

May make rules.

Sec. 3. Be it further enacted, That the said trustees shall have power to elect a president, vice-president, treasurer and secretary, and to prescribe the duties of each; and they may organize such faculty for the superintendence of said Academy as they may think proper; they may fix the rates of tuition and make such regulations and prescribe such forms for the granting of certificates, diplomas or other evidences of scholarship as they may choose.

Organization of board.

Sec. 4. Be it further enacted, That the president and trustees aforesaid shall not be required to pay any tax upon property held by them in their corporate capacity, unless the same shall exceed in value the sum of twenty-five thousand dollars, and then only upon the amount exceeding that sum.

Property exempt from taxation.

Sec. 5. And be it further enacted, That it shall not be lawful for the probate court or commissioners' court of roads and revenue of Lawrence county to grant a license to any person for the retail of spirituous liquors within three miles of the location of said academy.

Retail of spirituous liquors within 3 miles prohibited.

Approved, February 9, 1852.

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[No. 245.]

AN ACT

To incorporate Newbern Female Academy.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, Thomas R.



Borden, J. Albert Bendon, J. E. Waitsett, Thomas H. Croon and Henry Jorison, and their successors in office, to be elected as hereafter prescribed, be and the same are hereby constituted and appointed a body corporate and politic under the name and designation of "the Trustees of Newbern Female Academy;" and as such that they be authorized and empowered to receive and hold property, real and personal, not to exceed twenty thousand dollars, and also make conveyance of the same; and further be entitled to sue and be sued, to plead and be impleaded, and have all other legal rights and be subject to all other legal liabilities that usually attach to similar incorporated bodies.

Corporators.

Name and style.

Powers.

Sec. 2. Be it further enacted, That the trustees of said academy shall be elected annually on the first Monday of February in each and every year; and all citizens living within a circuit of two miles around said academy shall be entitled to vote for trustees, provided such citizens are qualified to vote for members of the general assembly of this state; and in case of vacancy occurring from any cause in the board before the time of a regular annual election, such vacancy shall be filled by the appointment of the remaining members; and the trustees are hereby authorized to make all necessary arrangements for holding the elections at the prescribed time; and in case of their failure to hold such elections at the time appointed, or within a week from the time appointed for holding the same, then and in that case any three citizens qualified to vote for trustees, after giving ten days' public notice, may hold said election and elect five trustees for said academy; and the trustees last in office shall continue in office until their successors are appointed or elected as prescribed.

Trustees elected annually.

Sec. 3. Be it further enacted, That the said board of trustees shall have power and authority to make all such needful rules and regulations, not conflicting with the constitution or any law of this state, which they may deem advisable for the government of their board or for the government and regulation of the academy hereby incorporated.

Powers of board.

Sec. 4. And be it further enacted, That, whereas an act has passed this present general assembly of the state incorporating "Newbern Female Academy," from and after the passage of this act it shall not be lawful for any person to retail spirituous liquors by the small measure within two miles of said academy building, any law of this state to the contrary notwithstanding; and any person guilty of a violation of this law shall be liable to indictment in the circuit court of the county wherein the offence is

Sale of ardent spirits within 2 miles prohibited.

Penalty for selling.



committed, and upon conviction he shall be fined by the said court a sum not less than five hundred dollars, to be appropriated to the county treasury.

Approved, February 9, 1852.

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[No. 243.]

AN ACT

To authorise the governor to furnish arms to the Wilcox Male Institute.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor of the State of Alabama be and he is hereby authorised to make the necessary arrangements with the general government to have, in lieu of the common muskets furnished to this state, one hundred enclot muskets and the usual accoutrements thereunto belonging; and that said muskets and accoutrements when received shall be delivered over to John C. Jones, Martin Read, Robert H. Ervin, Joseph George, John C. Young, David W. Sterrett and Franklin A. Beck, trustees of the Wilcox Male Institute, or their successors in office: Provided, That said trustees above mentioned, or their successors in office, before receiving said muskets and accoutrements, give bond for the safe keeping and return in good order of said arms and accoutrements in such sum as the governor may require, to be approved by him; to return said arms to the state whenever required, and likewise to return them, whether required by the state or not, whenever the said institute shall cease to be a military school and said arms are not used for military training and discipline in said institute.

Governor may substitute public arms.

Proviso.

Sec. 2. And be it further enacted, That his excellency the governor is hereby empowered to make all the necessary orders for the substitution of these arms in place of others and deliver them over to said trustees or their successors, on their giving bond and receipt for the same as before required: Provided, That the state shall not be subjected to any expenses on account of the delivery of said arms to the aforesaid trustees or their successors, or their re-delivery to the state: Provided, That the muskets herein required to be furnished to said trustees must be furnished from the arms to which the state may be entitled and may hereafter draw from the United States.

Power of the governor.

Proviso.

Proviso.

Approved, February 10, 1852.



[No. 247.]

AN ACT

To authorise the governor to furnish cadet muskets to Gibson F. Hill's Military Academy.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor of the State of Alabama be and he is hereby authorised to make the necessary arrangement with the general government to have, in lieu of the common muskets furnished to the state, sixty-four cadet muskets, together with all the usual accoutrements thereunto belonging; and that said muskets and accoutrements when received shall be delivered over to Gibson F. Hill, of the county of Chambers, for the use of his military school: Provided, The said Gibson F. Hill shall, before receiving the same, give bond for the safe keeping and return in good order of the said arms and accoutrements in the sum of six hundred dollars, to be approved by the governor of the State of Alabama; to return said arms to the state whenever required, and likewise to return them, whether required by the state or not, whenever his school ceases to be a military school and said arms are not used for military training and discipline in said school.

Duty of the governor in substituting arms.

Sec. 2. And be it further enacted, That his excellency the governor is hereby empowered to make all the necessary orders for the substitution of these arms in place of others and to deliver them over to said Gibson F. Hill, on his giving receipt for the same and the bond above required: Provided, That the transportation shall in no case become a charge upon the state.

Further duty.

Approved, January 27, 1852.

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[No. 248.]

AN ACT

To authorise the governor to furnish arms to the Orrville Institute, in Dallas county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor of the State of Alabama be and he is hereby authorised to make the necessary arrangements with the general government to have, in lieu of the common muskets furnished to the state, seventy-five cadet muskets, the usual accoutrements thereunto belonging; and that said muskets and accoutrements when re-

Governor authorized to substitute public arms, &c.



ceived shall be delivered over to James H. Malone, of the county of Dallas, free from expense to the state, for the use of the Carville Institute: Provided, The said James H. Malone shall, before receiving the same, give bond for the safe keeping and return in good order of the said arms and accoutrements in the sum of six hundred dollars, to be approved by the governor of the state of Alabama; to return said arms to the state whenever required, and likewise to return them, whether required by the state or not, whenever the institute shall cease to be a military training school and said arms are not used for military training and discipline in said institute.

Proviso.

Sec. 2. And be it further enacted, That his excellency the governor is hereby empowered to make all the necessary orders for the substitution of these arms in place of others and deliver them over to the said James H. Malone, on his giving bond and receipt for the same as before required.

Power of Governor.

Approved, February 10, 1852.

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[No. 249.]

AN ACT

To authorise the Mobile Rifle Company to exchange public arms now in their possession for certain others therein described.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Mobile Rifle Company be and is hereby permitted to deliver up to the quarter-master general of the state the public arms now in their possession and receive in lieu thereof eighty new percussion lock brass mounted rifles and accoutrements out of any such arms received or that may be received from the United States; and the governor is hereby authorised, whenever good and sufficient bond is given for the safe keeping, preservation and return of said arms when called for, issue his warrant to the quarter-master general requiring him to deliver the said arms to the said company: Provided, however, That no expense shall be incurred by the state on account of said exchange of arms.

May exchange public arms.

Proviso.

Approved, February 4, 1852.



[No. 250.]

AN ACT

To authorise the governor to furnish arms to the Tuskegee Classical and Scientific Institute, in Macon county, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor of the State of Alabama be and he is hereby authorised to make the necessary arrangement with the general government to have, in lieu of the common muskets furnished to the state, sixty-four cadet muskets, the usual accoutrements thereunto belonging; and that said muskets and accoutrements when received shall be delivered over to William Johns, of the county of Macon, free from expense to the state, for the use of the Tuskegee Classical and Scientific Institute: Provided, The said William Johns shall, before receiving the same, give bond for the safe keeping or return in good order of the said arms and accoutrements in the sum of six hundred dollars, to be approved by the governor of the State of Alabama; to return said arms to the state whenever required, and likewise to return them, whether required by the state or not, whenever the institute shall cease to be a military school and said arms are not used for military training and discipline in said institute.

Gov. may make arrangements to substitute public arms.

Proviso.

Sec. 2. Be it further enacted, That his excellency the governor is hereby empowered to make all the necessary orders for the substitution of these arms in place of others and to deliver them over to said William Johns, on his giving bond and receipt for the same as before required.

Power of the governor.

Sec. 3. And be it further enacted, That the provisions of this act also apply to the West Alabama Institute at the town of Sumterville, in the county of Sumter.

Provisions extended.

Approved, February 3, 1852.

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[No. 251.]

AN ACT

To authorise the governor to furnish the Tuskegee Classical and Scientific Institute with artillery.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor be and he is hereby authorised, upon the execution of bond by William Johns, principal of the Tuskegee Classical and Scientific Institute,



with good and sufficient sureties, to furnish said institute with two six pounder brass pieces, for the use of said institute for instruction in artillery tactics, which bond shall be subject to renewal at the pleasure of the governor.

Approved, February 9, 1852.

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[No. 252.]

AN ACT

To incorporate the Pike Rangers, in Pike county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That such persons as have enrolled themselves for the purpose of forming a volunteer company in the county of Pike, under the name of Pike Rangers, together with their associates and successors, be and they are hereby made and declared a body corporate by the name and style of "The Pike Rangers," with the usual powers incident and common to bodies corporate of this kind: Provided, That said company shall consist of not less than thirty nor exceeding sixty members, exclusive of commissioned officers.

Incorporated.

Name and style.

Sec. 2. Be it further enacted, That said company shall uniform themselves fully and completely in some uniform to be by them selected, and shall muster at least six times a year.

Shall uniform.

Sec. 3. And be it further enacted, That said company shall have power to make all by-laws for their government not inconsistent with the constitution and laws of this state; and all fines and forfeitures collected for violation of said by-laws shall belong exclusively to said company and may be appropriated as said company may direct.

May make by-laws.

Approved, February 10, 1852.

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[No. 253.]

AN ACT

To incorporate the White Plume Riflemen.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the volunteer company heretofore formed at the town of Florence, in Lauderdale county, under the name and style of "The White Plume Riflemen," be and they are hereby incorporated and made a body politic for military purposes of the state; and by that name may sue

Incorporated.



and be such, and may have and exercise generally all such rights, powers and privileges as other incorporated companies of a like kind have and enjoy, not inconsistent with the laws and constitution of this state.

Sec. 2. Be it further enacted, That said company be and is hereby required to hold six company musters annually, and is hereby attached to eleventh regiment, in Lauderdale county, and shall parade at the usual musters and be subject to the control of the commanding officers of said regiment on such usual muster days.

Shall hold 6 co.  
musters annu-  
ally.

Sec. 3. Be it further enacted, That said company shall have power to pass such by-laws as shall be necessary for the good government of said company; and all fines and forfeitures levied and collected by said company from any of its officers or members under such by-laws and regulations as the company adopt, shall belong exclusively to said company, to be by them appropriated as they may think proper.

May pass by-  
laws.

Sec. 4. Be it further enacted, That said company shall consist of not less than forty nor more than eighty members, exclusive of its officers, of which it may have the usual number: Provided, that no other company in said regiment shall by the provisions of this act be reduced to less than the number required by law.

No. of members.

Sec. 5. Be it further enacted, That upon the execution of the proper bond by the captain of said company, with security to be approved by the governor, it shall be the duty of the governor to furnish said company with such arms and accoutrements as may be deemed appropriate.

May have pub-  
lic arms.

Sec. 6. And be it further enacted, That it shall be the duty of said company to uniform and equip themselves fully and completely in some suitable and proper uniform to be by them selected.

Shall uniform.

Approved, February 3, 1852.

[No. 354.]

AN ACT

To incorporate the Rough and Ready Invincibles.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the volunteer company known as "The Rough and Ready Invincibles," of the county of Montgomery, and of which L. B. Norman is captain, be and the same are hereby created a body corporate; and by

Incorporated.



that none may sue and be sued, and are authorized to pass such by-laws as may be necessary to secure an efficient and thorough organization not incompatible with the constitution and laws of the state.

Sec. 2. Be it further enacted, That said company shall consist of not less than forty nor more than eighty members; the officers of said company shall consist of a captain, one lieutenant, one ensign and the legal number of non-commissioned officers, and shall be required to adopt some proper uniform to be by them selected; and that all fines and forfeitures collected by the authority of said company shall be appropriated as they may think proper: Provided, no other militia company shall be reduced below its lawful number by raising said company.

No. of members.

Sec. 3. Be it further enacted, That said company shall be required to hold at least six regular company drills or parades in each year, and shall not be required to perform any other military duty, unless by order of the governor of the state; and shall at all times be liable to do service as minute men under his requisition; and that they be exempted from serving on juries, any law to the contrary notwithstanding.

Shall hold 6 musters annually.

Sec. 4. And be it further enacted, That the governor be and he is hereby authorized to cause the said company to be furnished with suitable arms and accoutrements, on being satisfied that they are completely organized in other respects and on their executing such sufficient bonds for their use, safe keeping and return as he may require: Provided, the state shall incur no expense or liability on account of the delivery of said arms.

Gov. to provide co. with public arms.

Approved, February 3, 1852.

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[No. 255.]

AN ACT

To repeal a law therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of an act entitled "an act to incorporate the Ochsoma Light Horse, of Montgomery county," approved March 4th, 1843, as exempts the members of said company from road duty, be and the same is hereby repealed.

Repeals.

Approved, February 9, 1852.



[No. 256.]

AN ACT

To consolidate certain captains' beats in the county of Franklin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the two captains' beats in the county of Franklin, known as the Spark's beat and the Spout Spring beat, be and they are hereby consolidated so as to constitute one beat, to be known and called the Centre beat; and that the northern line of said beat be changed as follows, to-wit: Commencing at a point in a place called the "Hurricane," where said line intersects the Newport road, and running thence a little north of east to a point far enough to include the residence and possessions of Wesley Rickard; thence east to a place on the Tuscumbia road one-half of a mile north of the residence of John Bird, commonly called the "Lime Kiln;" and thence south with said Tuscumbia road to the "Crooked Oak," when it will unite with the present line of the Spark's beat.

Beats consolidated.

Northern line of said beat defined.

Sec. 2. Be it further enacted, That nothing in this act shall be so construed as to deprive any officer elected in either of said beats of his office until the expiration of his term for which he was elected.

Rights of officers reserved.

Sec. 3. And be it further enacted, That the beat hereby constituted by the consolidation of the aforesaid Spark's and Spout Spring beats shall hereafter be entitled to a number of officers, civil and military, equal to that to which, by existing laws, they are both entitled to, any laws or parts of laws to the contrary notwithstanding.

Officers of centre beat.

Approved, February 10, 1852.

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[No. 257.]

AN ACT

To change the line between the 71st and 91st regiment Alabama Militia.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the line between the 71st and 91st regiments, Alabama militia, is hereby changed so as to run from where said line crosses the Big Tallapoosa River, in Randolph county, up said river along the western bank thereof, across four ranges of sections, and then due west

Division line.



to the boundary line between the counties of Randolph and Talladega.)

Approved, February 10, 1852.

[No. 253.]

AN ACT

To establish an additional beat in the county of Bibb.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That whereas the militia beat in the county of Bibb, numbered and known as beat number four; is unnecessarily large in extent of territory, so much so as to be highly inconvenient for the citizens thereof, therefore the same is hereby divided into two beats, by lines as follows, to-wit: Beginning on the range line between range seven and eight at the middle of township twenty-two, running down Bluegut Creek to the mouth of a branch called the Mock Branch; thence up a high ridge to the meeting house to the section line, two miles east of the range line between range eight and nine; thence north along the said section line to the other beat line.

Beat divided.

Sec. 2. Be it further enacted, That the eastern portion of the beat thus divided shall retain the number four as heretofore, and that the other portion be designated and known by the number twelve.

New beat established.

Sec. 3. And be it further enacted, That the present officers of the beats thus established shall continue to hold their offices in the beat in which they may reside, according to law: and if either of said beats be without justices, constable, &c., the sheriff, or other proper officer, shall take steps to fill the vacancies, after the legal notice; and that the precinct or place of voting in said beats shall be in beat number four, at John W. Moreland's, and in beat number twelve, James McDonnole's; and all laws or parts of laws contrary to the provisions of this act be and the same are hereby repealed.

Officers shall be elected when necessary.

Approved, February 9, 1852.



[No. 259.]

## AN ACT

To divide beat number three of the 89th regiment.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of beat number three of 89th regiment of Alabama militia as lies on the west side of the old St. Stephens and Winchester roads be constituted a new beat, to be called beat number seven, and that the same be attached to the first battalion of said regiment.

Beat No. 7 established.

Approved, February 7, 1852.

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[No. 260.]

## AN ACT

To establish a new company beat in Marshall county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a new company beat be and is hereby established in Marshall county, laid off and defined as follows: Commencing where the base meridian line crosses Brown's creek, in said county, thence with said line to the top of the Sand Mountain, thence to ----- Baldwin's, and so as to include said Baldwin in said new beat, from thence eastwardly to the Jay Bird beat line, thence with said line to the Byshop hollow, thence down said hollow in a straight line to the Dixon Gap, thence on a straight line to Brown's creek, thence up said creek to the beginning.

New beat established.

Sounds.

Sec. 2. And be it further enacted, That a place known as the Cross Roads, in Gunter's valley, is hereby declared to be the muster ground in said beat until otherwise agreed upon by said company: Provided, That said beat lines and muster ground shall be subject to such alteration or removal as other militia companies are subject to.

Muster ground.

Proviso.

Approved, February 9, 1852.

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[No. 261.]

## AN ACT

To establish a new beat in the 97th regiment, in the county of Benton.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all that portion of territory lying in the 97th



regiment of Alabama militia, beginning at the Georgia line at the crossing of Mountain creek, thence to Solomon H. Jackson's, thence to James Bolton's, thence to the head of the south prong of Tarrapin creek, thence to Benjamin Rhodes', thence to Larkin Brown's, thence to Carter Mahaffey's, near the Georgia line, thence to the beginning, shall constitute a beat company, and be attached to and form a part of the said 97th regiment of Alabama militia; and that the said beat shall be organized and civil and military officers elected therein in all respects as in other beats in the state; and that said beat shall not be required to contain the number of inhabitants now prescribed by law.

New beat established.  
Boundaries.

Sec. 2. And be it further enacted, That civil officers in and for said beat herein constituted shall be elected on the first Monday of March next, under the direction of three freeholders living within said beat, who shall be sworn as other managers of elections are now required to sworn; which said election shall be held at the house of Wm. Carmichael: Provided, That any person now holding office in the bounds of said beat under former election, shall hold the same in the beat herein established during the time for which any such officer may have been elected.

Officers shall be elected.

Proviso.

Approved, January 31, 1852.

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No. 262.

# AN ACT

To establish an additional beat in the 88th regiment, in the county of Jefferson.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the Mud Creek beat, in the county of Jefferson, be and the same is hereby divided so as to make an additional beat in the 88th regiment, ed brigade, 7th division, Alabama militia, commencing at the county line between Jefferson and Tuscaloosa at John McRae's, running the Tuscaloosa road to Barham's old store house, thence the road to Capt. Samuel F. Huey's, thence to Maj. Joseph Carrington's.

Beat divided.

Sec. 2. Be it further enacted, That that portion lying on the Warrior river shall be an additional beat; and it is hereby made the duty of the officer highest in command in said regiment to number said additional beat and embrace the same in the aforesaid regiment.

Additional beat.

Sec. 3. Be it further enacted, That the citizens of said

beat, at the next general election for justices of the peace and constables, are hereby authorised to proceed to elect two justices of the peace and one constable for said beat in the manner now prescribed by law.

Shall elect officers.

Sec. 4. And be it further enacted, That this act shall not be construed to affect the rights of any militia officer acting under the authority of a commission from the governor; but he shall be allowed to exercise the duties of his office in the beat to which he may be attached in consequence of said division as fully as if said division had not been made; any law, custom, or usage to the contrary notwithstanding.

Rights reserved to officers.

Approved, January 29, 1852.

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No. 263.

#### AN ACT

To establish a company beat in the county of DeKalb.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That a company beat be and the same is hereby established in the county of DeKalb, with a less number of privates than is now required by law, bounded as follows: Beginning one mile south-west of the stage gap in the Sand mountain, thence a direct line to the county line between the counties of Marshall and DeKalb, thence to Chipoorwill creek, thence with the meanderings of said creek to the road leading from William Nicholson's to Brigg's mill, thence with said road to the top of the mountain, thence with the top of the said mountain to the beginning point.

Beat established.

Approved, January 29, 1852.

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No. 264.

#### AN ACT

To designate the lines between certain regiments therein mentioned.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the line between the 1st and 35th regiments, Alabama militia, shall commence on the Tennessee river at the point where the land of Joseph Wilson and Joseph P. Frazier corners on said river, and run thence up the hollow by a place called the Coburn Spring to the high ground at the head of said hollow, thence a direct

Division line defin'd between 1st and 35th regiment.

line to the Goose Pond, thence with the old line to the Winchester road on the top of the mountain at the head of Box's Cove, thence along said road, northward, until it intersects the road to Guess creek, thence along said road westward, to the Narrows or place where said road turns down the mountain, thence to continue along the mountain between the Blue Spring Cove and Paint Rock river, following the old trace along said mountain until it intersects the line now established running westward to the Madison county line.

Approved, December 16, 1851.

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No. 265.

AN ACT

Authorising the school commissioners in the townships fourteen and fifteen, range twenty-six, in the county of Russell, to retain the notes given for sixteenth sections until due and collected.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the school commissioners of the sixteenth sections in township fourteen and fifteen, in range twenty-six, in the county of Russell, be and they are hereby authorised to retain in their possession the notes given for the purchase money of said sixteenth sections until said notes are due and collected.

Shall retain notes.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeal.

Approved, February 9, 1852.

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No. 266.

AN ACT

To authorise the sale of the sixteenth section in township four and range three.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That upon the consent and request in writing of a majority of those entitled to vote of the citizens of township four of range three, east, the judge of the probate court for Monroe county shall order the sixteenth section in said township to be sold, and shall appoint three citizens of said county to act as commissioners to sell the same.

Sale may be ordered.



Sec. 2. Be it further enacted, That it shall be the duty of said commissioners to have said sixteenth section divided and run off into eighty acre lots, according to legal subdivisions, by a county surveyor, and shall affix thereon a minimum price.

Lands to be divided.

Sec. 3. Be it further enacted, That said commissioners shall sell said several lots at public sale to the highest bidder, on some part of the said sixteenth section, on such day as they may think proper, after giving thirty day's notice thereof in one of the newspapers published in the city of Mobile, on a credit of one, two, three and four years, in equal instalments with interest thereon at six per cent. from the dates thereof: Provided, Said sale shall not be effected for less than the minimum price fixed on the respective lots: And provided, Said commissioners may require the purchasers to pay cash sufficient to pay the necessary expenses of said sales.

Lots, how sold.

Sec. 4. Be it further enacted, That upon such sale the purchasers shall execute their notes for the purchase money as above provided, with two good securities, which notes shall be payable to the governor of the State of Alabama and his successors in office, and be by the said commissioners placed in the hands of the judge of probate of Monroe county, who shall forward the said notes to the comptroller of the State of Alabama, whose receipt therefor shall be filed in the office of said judge of probate.

Purchasers shall give notes.

Sec. 5. Be it further enacted, That upon the payment of said notes, the governor of the State of Alabama is authorised to issue his patent conveying said lands to the respective purchasers thereof, their heirs or assigns.

Upon payment, patents to issue.

Sec. 6. Be it further enacted, That said commissioners are hereby authorised to receive and receipt for such sum or sums of money for the use, occupation or rent of said sixteenth section, or any part thereof, as they may agree upon with those who may have occupied or used the same; and if the said commissioners and such person or persons cannot agree upon the amount, the said commissioners are hereby authorised to sue for and recover the same: Provided, The defendants shall not be entitled to the benefits of any statute of limitations.

Power of commissioners.

Sec. 7. Be it further enacted, That the commissioners, upon the receipt of any moneys, after paying all necessary expenses, shall pay the same to the treasurer of the State of Alabama to the credit of the said sixteenth section.

Duty of com'rs.

Sec. 8. And be it further enacted, That said commis-

sioners, before they enter upon their duties as commissioners, shall make oath before the said judge of probate that they will faithfully perform all the duties prescribed by this act, and shall give bond and security in the sum of ten thousand dollars, payable to the governor of the State of Alabama and his successors in office, conditioned for the faithful performance of their duties.

Shall take oath.

Approved, January 30, 1852.

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No. 267.

AN ACT

To authorise the governor of this state to issue a patent to A. M. Lackey, for lot No. seven, section sixteen, township seven, range nine, west.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of this state is hereby authorised and required to issue to A. M. Lackey, of the county of Lawrence, a patent for lot number seven, of the sixteenth section, township number seven, range number nine, west: Provided, He produce satisfactory evidence that the purchase money of said lot has been fully paid.

Approved, November 26, 1851.

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No. 268.

AN ACT

For the benefit of township twenty-two, range twenty-four, east, in Tallapoosa county, township sixteen, in Benton county, and township seven, in Lawrence county.

Whereas, the branch of the bank of the State of Alabama at Montgomery has heretofore collected, for account of section sixteen, township twenty-two, and range twenty-four, east, in Tallapoosa county, the sum of six hundred and fifty dollars, principal, due said township, but failed to report the same to the comptroller, in consequence of the neglect of her attorney to pay over the money, or from some other cause; therefore-----

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee of the state bank and branches be and he is hereby required to pay into the treasury of the State of Alabama, for the benefit and to the

Comm'r and trustee shall pay certain moneys.

credit of township, twenty-two, range twenty-four, east, in Tallapoosa county, the sum of six hundred and fifty dollars, principal, and five hundred and sixty-four  $\frac{75}{100}$  dollars, interest, the amount of sixteenth section fund of said township collected by the attorney of the branch of the bank of the State of Alabama at Montgomery.

Sec. 2. Be it further enacted, ~~That~~ the said commissioner and trustee shall report to the comptroller of this state that he has paid over the sum of twelve hundred and fourteen dollars and seventy-five cents to the credit of said township when said payment shall be made; and thereupon the comptroller shall certify the same to the governor of the State of Alabama, who shall issue to the commissioners of the sixteenth section in the said township, a certificate showing the amount so received on account of said township, as is now provided by law in other cases of sixteenth section funds, which said certificate shall have the same effect as other certificates issued under the authority of an act entitled "an act to regulate permanently the sixteenth section fund," approved March 6th, 1848.

Shall report to  
comp. of public  
accounts.

Sec. 3. Be it further enacted, ~~that~~ the commissioner and trustee of the state bank and branches be and he is hereby required to pay into the treasury of the State of Alabama, for the benefit and to the credit of township sixteen, range nine, east, in the Coosa land district in Benton county, the sum of twenty-six dollars, principal, and the sum of twenty dollars and forty cents, interest, the amount of sixteenth section fund of said township collected by the attorney of the branch of the bank of the State of Alabama at Montgomery; and that all the provisions of the second section of this bill shall apply in favor of the school commissioners of the said township sixteen, range nine, east, as to the sum of forty-six dollars and forty cents, being the aggregate amount of said principal and interest.

Shall pay for  
township 16,  
range 9, east,  
in Benton co.

Sec. 4. Be it further enacted, ~~That~~ the commissioner and trustee of the state bank and branches be and he is hereby required to pay into the treasury of the State of Alabama, for the benefit and to the credit of the sixteenth section fund of township eleven and range thirteen, in the county of Butler, the sum of three hundred and fifteen  $\frac{59}{100}$  dollars, principal, and three hundred and twenty-one  $\frac{39}{100}$  dollars, interest, the amount of money due said township on a note collected by the attorney of the branch of the bank of the State of Alabama at Montgomery; and that all the provisions of the second section of this act shall apply in favor of the school commissioners of sixteenth section of said

Also for town-  
ship 11, range  
13, Butler co.



township eleven and range thirteen as to the sums of money in this section specified.

Sec. 5. And be it further enacted, That the commissioner and trustee of the state bank and branches be and he is hereby required to pay into the treasury of the State of Alabama, for the benefit and to the credit of the sixteenth section fund of township seven and range nine, in the county of Lawrence, the sum of one hundred and thirty-two dollars and twenty-four cents, principal, and one hundred and seven dollars and twenty-nine cents, interest, the amount of money due said township on notes collected by the attorney of the branch of the bank of the State of Alabama at Decatur; and that all the provisions of the 2d section of this act shall apply in favor of the school commissioners of sixteenth section of said township seven and range nine, as to the sums of money in this section specified.

Approved, February 10, 1852.

Also for township 7, range 9, Lawrence co.

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No. 269.

# AN ACT

To locate school lands of township seventeen, range one, west, in Sumter county.

Whereas, section nineteen, township seventeen, of range one, west, in the Demopolis land district, was reserved from sale by the government of the United States for school purposes instead of section sixteen, having been covered by the Indian reserve of D. Brashears; and whereas, one James T. Shackelford has been allowed by the general government to enter the south-east quarter of said sixteenth section, the other quarter remaining unentered; and whereas, the inhabitants of said township are, by the act admitting Alabama into the union, least entitled to the remaining quarter of said section sixteen, and it is to the interest of said inhabitants to obtain the same for school purposes; therefore-----

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of the state be and he is hereby authorised and required to obtain from the government of the United States, for the inhabitants of said township seventeen, for school purposes as provided by said act admitting the State of Alabama into the union, location and title to the south-west quarter of said section sixteen, and to receive for such purposes only so much of section nine-

Duty of the governor.

teen as may with said quarter section make a section of land.

Sec. 2. And be it further enacted, That the governor be authorised and required to ascertain from the school commissioners of said township which quarter sections of said section nineteen it will be most to the interest of the inhabitants of said township to take for school purposes, in lieu of said three-quarters of section sixteen, lost to said inhabitants by reason of said reservation and said entry; and that he obtain the same for school purposes as aforesaid.

Duty and power.

Approved, February 9, 1852.

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No. 270.

AN ACT

To legalise the sale of certain school lands, and for other purposes.

Whereas, the commissioners for township nineteen of range twenty-eight, in Russell county, have sold the north-east quarter, the north-west quarter and the south-east quarter of section sixteen in said township and range, and have received from the purchasers notes for the same bearing six per cent. interest----

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sale made by said commissioners as aforesaid be and the same is legalised and made as binding on the commissioners and purchasers as if the notes had been made to draw eight per cent. interest.

Sec. 2. Be it further enacted, That the comptroller shall receive said notes as the law now in force authorises him to receive sixteenth section notes: Provided, The purchasers nor the commissioners shall be held liable for the amount of the difference between six and eight per cent.

Duty of comptroller of public accounts.

Sec. 3. And be it further enacted, That the sale heretofore made by the commissioners of township sixteen of range twenty-six to John U. Brown, of Macon county, of section seventeen, substituted for section sixteen, bearing interest at the rate of six per cent. per annum, be and the same is hereby legalised and made valid; and that his excellency the governor cause a patent to issue in favor of said John U. Brown for said section seventeen, upon receiving satisfactory evidence that said Brown has complied with the terms of his said purchase.

Sale confirmed.

Approved, February 9, 1852.

No. 271.

## AN ACT

To authorise the governor to issue a patent to certain school lands therein specified.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of the State of Alabama be and he is hereby authorised and empowered to issue or cause to be issued a patent to certain school lands, the same being all of section number seventeen, in township thirteen of range twenty-four, (except the west half of the south-east quarter thereof,) situate and being formerly in the county of Pike, but now in the county of Macon and said state, to Howell Peebles, of said county of Macon, thereby vesting in him and his heirs the legal title to the same: Provided, that no patent shall issue as hereby authorised until the governor shall have satisfactory evidence that said Howell Peebles is bona fide owner of said land, and that the purchase money and interest agreed to be given for the same has been fully paid.

Gov. may make patent to certain lands.

Proviso.

Approved, February 7, 1852.

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No. 272.

## AN ACT

Requiring the governor to cause patents to be issued to certain lands therein named to Mary Stephens and others.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of the State of Alabama be and he is hereby required to cause a patent to be issued to the north-east quarter and the east half of the north-west quarter of section sixteen, township nineteen, of range twenty-nine, in the name of Mary Stephens; also to the west half of the south-east quarter of section sixteen, township nineteen, of range twenty-nine, in the name of Howell Hodge; also to the south-east quarter of section sixteen, township fifteen, of range twenty-nine, in the name of Mary Stallengs; said lands are situated in Russell county; and also for the lot number eight in section sixteen, of township fourteen, of range seven, east, in Benton county, to John M. Crook; also, on evidence of full payment of all the principal and interest due for the purchase of the south half of section sixteen, township twenty-one, of range two, west, in Sumter county, to issue the patent of said south

Gov. shall issue certain patents.



half of said sixteenth section to William Ellit, when proof has been made to him that the purchase money has been paid to any person authorised by law to receive it.

Approved, February 10, 1852.

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No. 273.

AN ACT

To repeal an act entitled "an act for the encouragement of education.

Whereas, it is made to appear by petition numerously signed by citizens of township nineteen, range two, West, Sumter county, that an act entitled "an act for the encouragement of education" operates to the disadvantage of the poor children in said township; therefore----

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act entitled "an act for the encouragement of education," and approved the 3d day of February, 1846, be and the same is hereby repealed.

Repeals.

Approved, February 9, 1852.

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No. 274.

AN ACT

To authorise J. J. Stewart, guardian of William Allen, to invest a certain sum of money in negro property for the use of said ward.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James J. Stewart, of Montgomery county, guardian of William W. Allen, a minor heir of Wade Allen, deceased, be and he is hereby authorised to invest the sum of twelve thousand dollars belonging to said ward in negro property for the use and benefit of said ward.

Money may be invested in negro property.

Sec. 2. And be it further enacted, That said James J. Stewart, so soon as he shall purchase the said negro property for his said ward, be and he is hereby required to return a full and complete inventory of the kind and value of said negro property to the probate court of Montgomery county.

Report shall be made to court.

Approved, December 22, 1851.

No. 275.

## AN ACT

To authorise Eliza Allen, guardian of Wade H. Allen, to invest a certain sum of money therein named in negro property for the use of said ward.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Eliza Allen, of Montgomery county, guardian of Wade H. Allen, a minor heir of Wade Allen, deceased, or any future guardian, be and she is hereby authorised to invest the sum of twelve thousand dollars belonging to said ward in negro property for the use and benefit of said ward.

Money may be invested in negro property.

Sec. 2. And be it further enacted, That the said Eliza Allen, or any future guardian, so soon as she shall purchase said negro property for her said ward, be and she is hereby required to return a full and complete inventory of the kind and value of said negro property to the probate court of Montgomery county.

Report shall be made to probate court.

Approved, December 22, 1851.

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No. 276.

## AN ACT

To authorise Pitman M. Lumpkin, of the county of Chambers, as guardian of John M. Vernon and Ebenezer R. Vernon, minors, to purchase negro slaves.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Pitman M. Lumpkin, of the county of Chambers, as guardian of John M. Vernon and Ebenezer R. Vernon, minors, be and he is hereby authorised and empowered to apply and appropriate any moneys which now are or hereafter may be in his hands, as such guardian, belonging to the estate of said wards, to the purchase of negro slaves, to be holden by him as the property of said ward.

Negro property may be purchased.

Approved, December 5, 1851.

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No. 277.

## AN ACT

To provide for the slae of the insolvent and doubtful claims belonging to the estate of Samuel Sevier, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate of the county of Franklin be

and he is hereby empowered to authorise the administrator of the estate of Samuel Sevier, deceased, to sell at public auction such claims, notes, accounts and other evidences of debt, belonging to said decedent's estate as he shall by proof be satisfied will promote the interest of said estate and not interfere with the rights of the creditors of the same.

May be sold at auction.

Sec. 2. Be it further enacted, That whenever said administrator shall make the sale which may be authorised under the provisions of this act, he shall return an account thereof to said judge of probate in the same manner and under the same restrictions as are now prescribed by law for the return of other accounts or sales.

Shall make report.

Sec. 3. And be it further enacted, That the right to sue and recover on any note, account or other evidence of debt which shall be sold under the provisions of this act be and is hereby granted to the purchaser of the same.

Right of purchaser to recover.

Approved, December 5, 1851.

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No. 278.

AN ACT

To authorise the sale of certain real estate belonging to Elihu Carlisle, late of the county of Perry, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is hereby made lawful for the judge of probate of the county of Perry, on being fully satisfied by proof oral or written, taken in such manner as he may deem just and proper, that the interest of the heirs and representatives of Elihu Carlisle, late of said county, deceased, will be best promoted by a sale of the real estate of said Carlisle, to make suitable entries and orders authorising and requiring the sale thereof, on such notice and on such terms and conditions as he may prescribe; any law, usage or custom to the contrary notwithstanding.

Real estate may be sold.

Approved, January 29, 1852.

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No. 279.

AN ACT

Authorising the appointment of a guardian for the property and estate of Zachariah Herndon, in the State of Alabama.

Whereas, it is represented that Zachariah Herndon, late of the county of Pickens, is a lunatic or non compos mentis,

Preamble.



and that he has been so adjudged by a court of competent jurisdiction in the State of North Carolina, and a guardian there appointed, and that he is now the inmate of a lunatic asylum in said last named state; and that there is personal and real estate of the said Herndon in said county of Pickens requiring the care and management of a guardian, and that the judge of probate in said county cannot as the law now stands take jurisdiction of the case and appoint a guardian of such property and estate; for remedy of the same---

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate in and for said county of Pickens shall and may have jurisdiction of the case, and may upon production of a copy to the record and proceedings of a court of competent jurisdiction and in due course of law decreeing or finding the said Zachariah Herndon to be a lunatic or non compos mentis and placing him under guardianship there, proceed to appoint some suitable person guardian of the property and estate of the said Zachariah Herndon in this state; and such guardian shall be required to give bond and shall have the same powers over the property and estate aforesaid and the management of the same, and for collection of debts due or to become due, and be subject to the same liabilities and be held to the same account as is provided for guardians as ordinarily appointed.

Probate court  
of Pickens co.  
may appoint  
guardian.

Approved, January 28, 1852.

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No. 280.

# AN ACT

To authorise the compromise of bad and doubtful debts belonging to the estate of James P. Postin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate of the county of Jackson is hereby empowered, upon the application of the administrator on the estate of James P. Postin, deceased, to authorise such administrator to compromise and compound the bad and doubtful debts belonging to said estate: Provided, That no such order shall be made at any time unless the court shall be satisfied by proof that the interest of the estate would be advanced thereby: And provided further, That no such contract or compromise herein provided for shall be valid until approved by the court.

Debts may be  
compounded  
and compro-  
mised.

Approved, January 28, 1852.

No. 281.

For the relief of the heirs of James English, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Thomas English, Sarah Densmore, formerly Sarah English, Hannah English, Mary English, and the other brothers and sisters, if any, and the descendants of such as may be deceased, of James English, deceased, be and they are hereby deemed capable of inheriting any property of which the said James English died possessed in this state as fully and effectually as if they were citizens of the United States.

Capable of inheriting.

Sec. 2. And be it further enacted, That the property, real and personal, of the estate of the said James English shall be distributed among his heirs in the same manner and under the same rules and regulations as the estates of other deceased persons are by the laws of this state: Provided, Nothing in this act shall be so construed as to affect the rights of creditors.

Distribution of property.

Approved, January 29, 1852.

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No. 282.

AN ACT

In relation to the estate of James M. Hardy, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the probate court of Dallas county is hereby given jurisdiction over the estate of James M. Hardy, deceased, so as to have and take such jurisdiction in the place of the probate court of Mobile county, in which county he died; and that such probate court of Dallas has as full jurisdiction as if he had died in Dallas instead of Mobile county: Provided, That the administrator in Dallas shall be liable to suit in the courts of Mobile county by creditors living there, and that creditors living in that county may present their claims by filing them in the office of the probate judge of Mobile county, without coming or sending to Dallas to present them.

Jurisdiction of probate court of Dallas.

Approved, February 5, 1852.

[No. 283.]

## AN ACT

To authorise Moses Cavitt, administrator, &c., of Richard Cavitt, to settle and compromise bad and doubtful debts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Moses Cavitt, acting administrator of the estate of Richard Cavitt, deceased, be and he is hereby authorised, upon the order of the probate court of Madison county, to compromise and settle any of the bad and doubtful debts due to said estate, on such terms as he may deem for the best interest of said estate: Provided, That the court before making such order shall be first satisfied that the debts proposed to be compromised are of the character indicated and that the same would advance the interest of the estate: Provided, further, That no settlement or compromise made under the provisions of this act shall be valid until approved by the court.

Approved, January 30, 1852.

Shall compromise bad and doubtful debts.

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[No. 284.]

## AN ACT

To authorise the administrator of Elizabeth Lindsey, late of Tallapoosa county, deceased, to sell certain real estate of his intestate.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Joseph Lindsey, administrator of the estate of Elizabeth T. Lindsey, late of Tallapoosa county, deceased, be and he is hereby authorised to sell the real estate of his intestate, situate in said county, for cash or on credit, upon giving notice by written advertisement for thirty days upon the door of the court house and two or more public places in the county of the time and place of sale, and upon entering into bond with sufficient security in double the amount of the estimated value of said estate, payable to and approved by the judge of the court of probate of said county faithfully to account for the proceeds.

May sell real estate.

Sec. 2. Be it further enacted, That said administrator shall make report of such sale to the judge of the said court of probate as soon thereafter as may be; who, if he approve the same, shall order a title to be made to the purchaser or purchasers by the administrator upon the payment of the purchase money.

Shall make report.



Sec. 3. And be it further enacted, That upon a final settlement of said estate, the judge of the said court of probate is hereby authorised to order the administrator to pay over such balance as may remain in his hands to the guardian of the distributee or distributees thereof resident of the State of Georgia: Provided, That such guardian shall exhibit to and file with the said judge regularly authenticated evidence of his appointment by some court in Georgia authorised to appoint, showing that he has executed in that state bond with security for the performance of his duties.

Money to be paid to guardian.

Approved, January 29, 1852.

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[No. 285.]

AN ACT

To authorise Martin Pond, administrator, &c., to compromise the bad and doubtful debts due the estate of Lewis W. Pond, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Martin Pond, the administrator with the will annexed of Lewis W. Pond, deceased, be and he is hereby authorised and empowered to compromise and compound such debts as are due to the estate of the said Lewis W. Pond in all cases in which the persons owing such debts are in insolvent or doubtful pecuniary circumstances.

Debts compromised and compounded.

Approved, February 5, 1852.

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[No. 286.]

AN ACT

To authorise Eliza Jane Weeden to qualify as executrix of the last will and testament of William Weeden, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate of Madison county be authorised, upon the resignation of Alexander Ewing, as administrator with the will annexed of the estate of William Weeden, deceased, to grant letters testamentary to Jane Eliza Weeden, as executrix of the last will and testament of said decedent, without requiring bond and security: Provided, That such grant be subject to the restrictions and provisions of the second section of the act No. 44,

Duty of judge of probate of Madison co.

Proviso.

approved March 6, 1848, entitled an act in relation to the grant of letters testamentary.

Approved, February 10, 1852.

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[No. 287.]

AN ACT

For the relief of F. M. Mills' heirs.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor be and he is hereby authorized, on satisfactory proof being made to him that section sixteen, township twenty-one, range one, west, in the county of Shelby, was purchased by Charles Coleman and by him sold and conveyed to Franklin M. Mills, and that the same has been fully paid for both to the state under Coleman's purchase and to said Coleman under said Mills' purchase, and that said Mills has departed this life, leaving children heirs at law, to make, execute and deliver to them titles for said sixteenth section.

Gov. may issue patents.

Approved, February 10, 1852.

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[No. 288.]

AN ACT

To authorise the compromise and sale of bad and doubtful debts belonging to the estate of Joshua Milner, late of Cherokee county, and of David Moore, of Madison county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate of the county of Cherokee is hereby empowered, upon the application of the administrator on the estate of Joshua Milner, deceased, to authorise such administrator to compromise the bad and doubtful debts belonging to said estate and sell the same to the highest bidder: Provided, That no such order shall be made at any time unless the court shall be satisfied by proof that the interest of the estate would be advanced thereby: And provided further, That no such contract or compromise or sale herein provided for shall be valid until approved by the court.

Debts of J. Milner may be compromised.

Proviso.

Sec. 2. And be it further enacted, That the judge of probate of Madison county may order a compromise or sale of the insolvent debts of the estate of David Moore, late

Debts due estate of D. Moore may be compromised.

of Madison county, upon petition of the administrator; setting forth the grounds of application and the debts to be compromised or sold, which petition must be verified by affidavit and the facts sustained by the written evidence of two respectable witnesses upon hearing the application; the facts thus stated and proved must be sufficient to satisfy the court of probate that the estate of the said David Moore will be materially benefitted by such compromise or sale.

Approved, February 10, 1852.

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[No. 259.]

AN ACT

To dispose of a portion of the estate of Alfred Loftin, a minor.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William W. Waller, the guardian of Alfred Loftin, may petition to the court of probate of Montgomery county for leave to sell the negroes of his said ward, naming the negroes and relating the ground of application for a sale, which petition must be verified by the affidavit of the guardian, and the facts therein set forth must be fully sustained by the testimony of two responsible witnesses; upon such application and proof, if the court is satisfied the interest of the estate of said Alfred will be materially and permanently benefitted by a sale of negroes, the court may decree a sale under such orders as the interest of the estate demand.

Certain negro property may be sold.

Approved, February 10, 1852.

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[No. 290.]

AN ACT

To authorise Elizabeth Gunter, administratrix of John Gunter, deceased, to sell certain real estate.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Elizabeth Gunter, administratrix of John Gunter, late of Blount county, deceased, be and she is hereby authorised and empowered to sell the east half of the south-west quarter of section thirty-two in township twelve and range one, east, containing eighty acres; the west half of the south-

May sell certain land.



east quarter of section thirty-two in township twelve and range one, east, containing eighty acres, and the west half of the south-west quarter of section thirty-two in township twelve and range one, at public sale, after advertising said land for thirty days at the court house door and two other public places in Blount county, and to convey the titles of said lands to the purchaser or purchasers of said sale.

Sec. 2. And be it further enacted, That the said administratrix shall render an account of said sale to the probate court of Blount county within thirty days next after the sale is made, and shall dispose of the moneys raised by the sale of said land in a due course of administration; and to insure the performance of the same, she shall give bond in such form, with such securities and in such sum as the judge of probate of Blount county shall prescribe, before she sells said land, which bond shall be payable to said judge and his successors in office and be approved of by him and filed in his office, which may be sued upon at any time hereafter by any person injured by a breach of its conditions.

Approved, February 10, 1852.

Shall render an account of sale.

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[No. 291.]

# AN ACT

For the relief of John P. McCracken, executor of Robert S. Lavender and his securities.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate in and for the county of Pickens be and he is hereby authorised to make an order that John P. McCracken, executor of the last will and testament of Robert S. Lavender, late of said county, be permitted and empowered to remove the negro slaves, cattle, stock, mules, &c., in his hands unadministered as such executor, belonging to the legatees William McAuly, Robert Anna Lavender, Lardey Iva Lavender, to the State of Mississippi, upon his settling as executor of said estate, up to the time of such removal; and that the securities on the bond of the said John P. McCracken, the executor, be thence discharged from all liability as such securities from any default or liability which may occur after the date of such order.

Property may be removed to Mississippi.

Sec. 2. And be it further enacted, That the said John R. McCracken be and he is hereby required, before applying for such order to the probate judge of Pickens county

Condition precedent.

aforesaid, to produce record evidence to the said judge of probate that he has had the said last will and testament of the said Robert S. Lavender duly admitted to probate in the proper court having jurisdiction thereof in the county in the state of Mississippi to which said property is to be removed; that he has returned an inventory under oath, setting forth the species and value of such property so proposed to be removed; and that he has executed a bond with good and sufficient security, according to law, in the said State of Mississippi, for the faithful performance of his duties as the executor of the said last will and testament; and that letters testamentary have been granted to him by said court according to law as such executor.

Approved, February 9, 1852.

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[No. 292.]

# AN ACT

For the relief of the heirs of Robert Hughes, deceased, of the county of Marion.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the judge of probate of the county of Marion, upon the final settlement of the estate of Robert Hughes, deceased, after the payment of all the debts, to divide all the insolvent judgments, notes and accounts between the children and the widow of said Hughes.

Duty of judge of probate of Marion co.

Sec. 2. And be it further enacted, That the guardian of said children shall have power to compound and compromise all of said insolvent claims and report to said court: Provided, That said guardian shall not be liable for any greater amount than he may receive for said debts.

Guardian has certain powers.

Approved, February 9, 1852.

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[No. 293.]

# AN ACT

For the relief of Joseph H. Cunningham, of Macon county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the school commissioners for township fourteen of range twenty-five, in the county of Macon, be and they hereby are authorised to receive from Joseph H. Cunningham the interest due on his notes given for school land in said township.

Duty of comm'r of township 14, range 25.

Sec. 2. Be it further enacted, That said commissioners may extend the time of payment of the principal of the notes given by said Joseph H. Cunningham for any length of time, not to exceed two years, and may collect the interest which shall hereafter accrue up to the time when the extension shall expire.

Debt may be extended.

Sec. 3. And be it further enacted, That all interest paid by said Joseph H. Cunningham, in pursuance of the provisions of this act, shall, upon a final settlement, be placed to the proper credit of the said Joseph H. Cunningham on said notes.

Of interest.

Approved, February 9, 1852.

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[No. 294.]

ACT

To authorise Dorothy Dossett, as the executrix of John Dossett, deceased, to sell the real estate of the said decedent and to purchase other lands with the money arising from the sale thereof.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Dorothy Dossett, executrix of John Dossett, deceased, resident of the county of Chambers, be and she is hereby authorised to sell the real estate of which the said decedent died seized in the county of Chambers, to-wit: the north-east half of section twenty-nine, township twenty-two and of range twenty-seven; said section being divided by a line commencing at the north-west corner and running to the south-east corner; also the north-east quarter of section thirty, township twenty-two and range twenty-seven, on such terms and in such manner as she may deem most advantageous to the interest of those persons interested.

May sell real estate.

Sec. 2. Be it further enacted, That the said executrix be and she is hereby authorised, on the sale of said real estate, to make the purchaser or purchasers, as the case may be, a legal conveyance of the same, which shall be as binding as if the same had been made by the said John Dossett in his life time.

May make title.

Sec. 3. And be it further enacted, That the said executrix be and she is hereby authorised to purchase other lands with the money arising from the sale of said real estate for the use and benefit of those persons mentioned in the last will of said John Dossett, deceased, so as to conform as near to the same as can be.

May purchase other lands.

Approved, February 9, 1851.



[No. 295.]

## -AN ACT

To authorise Jason Jones, guardian, &c., to sell the property of his ward.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Jason Jones, of the county of Montgomery, guardian of Alfred W. Kervin, a minor heir of Mary Kervin, deceased, be and he is hereby authorised to sell a certain negro man named Bob, the property of said minor, and to loan the money arising from the sale of said negro at interest.

Approved, February 9, 1852.

May sell certain negro.

[No. 296.]

## AN ACT

For the relief of Sarah A. Witherspoon, executrix of the last will of R. Franklin Witherspoon, and his securities.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate in and for the county of Greene and the State of Alabama be and he is hereby authorised to make an order that Sarah A. Witherspoon, the executrix of the last will and testament of R. Franklin Witherspoon, late of said county, be permitted and empowered to remove the negro slaves, cattle, stock, mules, &c., in her hands unadministered as such executrix belonging to said deceased, from the county of Greene aforesaid to the State of Mississippi, upon her settling her administration of said estate up to the time of such removal; and that the securities on the bond of the said Sarah A. Witherspoon, the executrix, be thence discharged from all liability as such securities from and after the date of such order for any default on her part as such executrix.

Property may be removed to

Sec. 2. And be it further enacted, That the said Sarah A. Witherspoon be and she is hereby required, before applying for such order to the judge of probate for Greene county aforesaid, to produce record evidence to the said judge of probate that she has had the said last will and testament of the said R. F. Witherspoon duly admitted to probate in the proper court having jurisdiction thereof in the county of the State of Mississippi to which said property is to be removed; that she has returned an inventory under oath setting forth the species and nature of such property so proposed to be removed, and that she has executed

Condition precedent.

a bond, with good and sufficient security, according to law in the State of Mississippi, for the faithful performance of her duties as the executrix of the said last will and testament, and that letters testamentary have been granted to her by said court according to law as such executrix.

Approved, February 9, 1852.

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[No. 297.]

# AN ACT

To authorise the sale of the real estate of James Lowry,  
late of Benton county, deceased.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is hereby made lawful for the judge of probate of the county of Benton, on being furnished with and on having the written assent of the widow, (as well as of her husband, if any,) and also on being fully satisfied by proof taken by interrogatories, as in chancery cases, or by other equally satisfactory proof, that it will be decidedly for the advantage of the minor or other legal heirs of the estate of the said James Lowry to make all suitable and necessary orders and order and decree a sale of the real estate left by and belonging to the said James Lowry at the time of his death, upon such terms and conditions as he may prescribe and as may seem best calculated to promote the interest of the heirs of said estate.

Powers of probate judge of Benton county.

Approved, February 9, 1852.

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[No. 298.]

# AN ACT

For the relief of the estate of William W. McLester.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee for the settlement of the affairs of the state bank and branches be and he is hereby authorised and required to allow as a set-off in favor of the estate of William W. McLester against any demand the said bank or any of its branches may have against the said estate, or to pay over to the legal representatives of said estate whatever sum, if any, he may decide to be due and owing to said estate, for services rendered by the said William W. McLester, deceased, as attorney, for compro-

Comm'r and trustee shall make allowance.

mising and securing a debt due the branch bank at Montgomery against Micajah Bidell, according to the contract made with said attorney and the statute in such cases made and provided.

Approved, February 9, 1852.

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[No. 299.]

AN ACT

To authorise the court of probate of Montgomery county to appoint commissioners to make a division of the negro slaves belonging to Missouri Rutland, Samuel C. Rutland, John E. Rutland and Thomas J. Rutland.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of the court of probate of Montgomery county be and he is hereby authorised and empowered to appoint five commissioners, who, or a majority of whom, being first duly sworn before some justice of the peace to make a fair and equal division and distribution of the negro slaves belonging to Thomas J. Rutland, Missouri Rutland, Samuel C. Rutland and John E. Rutland, shall make division and distribution of the said negro slaves among the said Thomas J. Rutland, Missouri Rutland, Samuel C. Rutland and John E. Rutland; and such division and distribution shall be reduced to writing and signed by said commissioners and certified by a justice of the peace before whom said commissioners are sworn and returned to the office of the judge of the court of probate of Montgomery county; and it shall be the duty of the said judge of probate to record the same.

Judge of Montgomery probate court may appoint comm'r to divide property.

Sec. 2. And be it further enacted, That if such division and distribution cannot be equitably effected that then the said judge of the probate court of Montgomery county is authorised and empowered to order said negro slaves to be exposed to public sale in the same way as slaves are now required by law to be sold by administrators for the purpose of division and distribution, and the proceeds of the sale of said negro slaves be divided between the said Missouri Rutland, Samuel C. Rutland, John E. Rutland and Thomas J. Rutland.

If division cannot be made, property to be sold.

Approved, February 9, 1852.



[No. 300.]

## AN ACT

To transfer the administration of the estate of Leroy Brasher, deceased, to Shelby county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the administration of the estate which was of Leroy Brasher, late of Talladega county, deceased, be transferred from the probate court of Talladega county to the probate court of Shelby county, as hereinafter provided.

Administration  
may be trans-  
ferred.

Sec. 2. Be it further enacted, That the judge of the probate court of Talladega county be and he is hereby required carefully to make out a transcript of all the proceedings had in said court in relation to the administration of said estates and of bonds, inventories and accounts filed by said administration, so as to show fully and truly and in consecutive order all the proceedings had in said county in relation to said estate as the same appears by the record thereof in said county; and the said transcript so made out the judge of probate shall duly certify under his hand and the seal of said court and carefully enclose the vouchers and all other papers relating to said estate in an envelope, which shall be sealed up by said judge and delivered to the judge of probate of Shelby county.

Duty of judge  
of probate of  
Talladega co.

Sec. 3. Be it further enacted, That upon the delivery of said package to said judge of probate of Shelby county, an entry of such delivery shall be made upon the minutes of said court and the transcript aforesaid shall become and be a record of said probate court of Shelby county; and all bonds, vouchers and other papers aforesaid shall be filed in said court and pertain to the same and to the administration of said estate in the same manner as they before pertained thereto in the county of Talladega; and the said court of Shelby county shall have full and entire jurisdiction of said estate and may enforce or otherwise act upon according to law the decrees or other proceedings therein had or made in the probate court of Talladega county as fully and completely as if all such decrees and proceedings were originally had in said probate court of Shelby county; and the said court shall proceed in the administration and settlement of said estate as if the same had been from the beginning under its jurisdiction.

Duty of same  
officer in Shel-  
by county.

Sec. 4. Be it further enacted, That the judge of the probate court of Talladega shall make upon the minutes and record an entry of the transfer of the jurisdiction according to this act of said estate to the probate court of

Record order  
shall be made.

Shelby, which shall be certified as a part of the transcript aforesaid; and that the judge of the probate court of Shelby county shall send a certified copy of the entry upon the minutes of said court and of the receipt of said transcript to the judge of probate of Talladega county; and said court shall cause a copy thereof to be made upon its minutes and record.

Sec. 5. And be it further enacted, That before the transfer of said administration, letters of administration must be issued by the judge of probate of Shelby county under the restrictions and requirements of the statute on the subject of granting letters of administration; and upon the administrator filing a duly certified copy of the bond and letters from Shelby county in the office of the judge of the probate of Talladega county, he may authorise the administrator to withdraw the papers pertaining to said estate as hereinafter provided.

Prerequisite.

Approved, February 10, 1852.

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[No. 301.]

#### AN ACT

To increase the pay of jurors for the county of Monroe.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, jurors for the county of Monroe shall receive one dollar and fifty cents for each day they shall serve and five cents for each mile they shall travel in coming to and returning from court, to be paid out of any money in the treasury of the county.

\$1.50 a day allowed.

Approved, February 7, 1852.

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[No. 302.]

#### AN ACT

To authorise bailiff tickets and jury certificates to be received in payment of county taxes in Covington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter it shall be the duty of the tax collector of Covington county to receive in payment of the county taxes of said county all jury certificates and bailiff tickets of said county; and if any tax payer shall hold a certificate or ticket of this nature and the same shall overpay his taxes,

Tax collector shall receive certificates in payment of tax.

the tax collector shall place the surplus to the credit of any other tax payer whom the person holding and offering said certificate or ticket shall designate.

Approved, December 18, 1851.

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[No. 303.]

AN ACT

To amend an act entitled "an act to provide for the paying the grand and petit jurors for the county of Coffee," approved December 12, 1849.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of the above recited act as requires the commissioners' court of said county to set apart a sufficient portion of the revenue of said county, with the tax of four dollars, to pay each jurymen one dollar and fifty cents per day and mileage, with other expenses, is hereby declared to be applicable to the court composed of the judge of probate and commissioners of roads and revenue in said county; and if they, the said judge and commissioners, neglect to comply with the provisions of said act and this amendment thereto, each of them shall be liable to a penalty of one hundred dollars, to be recovered in any court having jurisdiction thereof, one-half to the person suing and the other to be paid into the county treasury.

Approved, December 18, 1851.

Fund shall be set apart.

\$1.50 a day allowed.

Penalty on court for neglect of duty.

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[No. 304.]

AN ACT

To regulate the pay of jurors of Autauga county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the grand and petit jurors of the county of Autauga shall receive the sum of two dollars per day for every day they shall attend and serve as jurors, in place of the per diem now allowed by law to jurors in said county, to be paid as now provided by law.

\$2.00 a day.

Approved, December 16, 1851.



[No. 305.]

## AN ACT

To compensate jurors serving on trials of the right of property in the counties of Dale and Perry.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter, in all trials of the right of property before any justice of the peace in the counties of Dale and Perry, each person who shall serve on any jury in such trial shall be entitled to receive the sum of fifty cents for each trial in which the jury shall render a verdict, which sum shall be taxed against the unsuccessful party in such suit; any law, usage or custom, to the contrary notwithstanding.

Allowed 50c. a day.

Approved, November 22, 1851.

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[No. 306.]

## AN ACT

To regulate the pay of witnesses in the county of Blount.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all persons who may hereafter attend as witnesses at any of the courts in the county of Blount (the courts of justices of the peace excepted) shall be entitled to receive as compensation for such attendance the sum of one dollar per day and the mileage now provided by law.

\$1.00 per day and mileage.

Sec. 2. Be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Sec. 3. And be it further enacted, That witnesses shall be allowed the mileage now provided by law.

Mileage.

Approved, November 25, 1851.

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[No. 307.]

## AN ACT

To repeal certain acts therein named regulating the pay of petit jurors in Randolph county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, an act approved January the 24th, 1845, entitled an act to regulate the pay of petit jurors in Henry, Dale, Randolph, Coffee and Covington counties, and also an act entitled an act to regulate

Repeals certain acts heretofore passed as to Randolph.

the pay of petit jurors in the counties of Henry, Dale, Coffee, Covington, Randolph, Pike and Marshall, approved January the 13th, 1846, be and the same are hereby repealed so that neither of said acts are to be in force or have any effect whatever in Randolph county: Provided, however, That said acts are to have the same force and effect in the counties of Henry, Dale, Pike, Coffee, Covington and Marshall that they had before the passage of this act.

Approved, November 29, 1851.

Proviso.

[No. 308.]

AN ACT

To regulate the attendance of witnesses in criminal cases in the county of Conecuh.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter in the county of Conecuh, the criminal docket shall be set for Wednesday of the circuit court, and all witnesses in cases on said criminal docket shall be summoned to appear on that day: Provided, That when in the opinion of the clerk of the said circuit court there shall not be business sufficient upon the civil docket to occupy the said court two days, then in that event the said clerk shall issue his subpoenas as now provided by law.

Criminal docket set for Wednesday and witnesses summoned.

Approved, January 31, 1852.

[No. 309.]

AN ACT

To provide for the payment of jurors in Tallapoosa county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That jurors in all cases tried in any court of record in and for Tallapoosa county shall be entitled to receive the sum of one dollar and fifty cents per diem and five cents for each mile necessarily traveled in going to and returning from the place of holding court, together with any ferriage actually paid out by them.

\$1.50 a day and mileage.

Sec. 2. Be it further enacted, That it shall be the duty of the commissioners' court of revenue of said county of Tallapoosa to provide a fund and set it apart for that purpose sufficient to pay said jurors.

Fund shall be provided.

Sec. 3. Be it further enacted, That if the treasurer of said county shall fail or refuse to pay any juror entitled according to the first section of this act, upon the presentation of the certificate of the clerk of the court in which he has served, that he has served and is entitled to receive a certain amount, it shall be lawful for said juror aforesaid to commence his action before any justice of the peace of said county, and shall be entitled to recover twice the amount certified to be due him off of said treasurer: Provided, That if upon presentation of said certificate the said treasurer will endorse on the back thereof, "No moneys in my office wherewith to pay the within certificate," (and sign the same officially,) then and in that case there shall be no judgment had against the treasurer; but the certificate shall bear an interest of eight per cent. per annum until it is paid, which shall be before any other appropriation or order upon the treasurer: And provided, That no talisman shall be entitled to any compensation unless he be detained more than one day in the trial of one cause.

Proceedings  
when treasurer  
fails to pay jury  
certificates up-  
on presentation.

Proviso.

Proviso.

Sec. 4. And be it further enacted, That all laws conflicting with the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, January 6, 1852.

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[No. 310.]

AN ACT

To provide for the prompt payment of grand and petit jurors in the county of Morgan.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the court of commissioners of revenue and roads of the county of Morgan, at the term in each year at which the county tax is levied to set apart by special order a sum sufficient to compensate the grand and petit jurors of said county for their services as such; and the amount so set apart shall be exclusively used and applied to the purpose aforesaid.

Fund shall be  
set apart.

Approved, January 29, 1852.

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[No. 311.]

AN ACT

To alter the mode of selecting the grand jurors for the county of Tuscaloosa.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly



convened, That it shall be the duty of the sheriff and clerk of the circuit court of the county of Tuscaloosa, under the superintendence and inspection of the judge of probate court of said county to select from the whole number of persons in said county qualified to serve as jurors, twenty-four persons best qualified, in their opinion, to serve on the grand jury of each and every term of the circuit court for said county; which persons selected as aforeseaid shall be summoned by the sheriff to serve as grand jurors at least thirty days before the sittings of said courts; and such jurors, for failing or refusing to attend and serve, shall be liable to all the penalties now provided by law.

24 persons to be selected as grand jurors.

Sec. 2. And be it further enacted, That all laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, January 30, 1852.

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[No. 312.]

AN ACT

To regulate the drawing and paying petit jurors in the county of Marion.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter there shall be drawn in the same manner as is now provided by law for drawing grand jurors for the county of Marion, twenty-four petit jurors to serve at each term of the circuit court of Marion county, who shall be summoned by the sheriff of said county at least ten days before the court.

How drawn.

Sec. 2. Be it further enacted, That said grand and petit jurors shall receive for their services one dollar and fifty cents per day and five cents mileage in going to and returning from said court.

\$1.50 a day and mileage.

Sec. 3. And be it further enacted, That all laws and parts of laws contrary to the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 12, 1851.

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[No. 313.]

AN ACT

To provide for the payment of jurors in certain cases in the county of Franklin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

convened, That hereafter, whenever any person is summoned and shall attend as a juror in any cause of the trial of the right of property pending before any justice of the peace in the county of Franklin, and such cause shall be dismissed or compromised by the parties after such attendance, or when such juror shall be challenged by either party to such suit, he shall be entitled to receive for such attendance the sum of fifty cents as fully as if he had served upon the jury in said cause and said jury had rendered a verdict therein.

50c. a day.

Sec. 2. And be it further enacted, That it shall be the duty of the justice of the peace before whom said cause is pending to tax said sum in the bill of costs against the unsuccessful party in all cases where the cause is not compromised; and if the cause be compromised against the party or parties which by the terms of such compromise is or are to pay the same, and if no provision be made by the parties in such compromise for paying such sum, he shall tax the same against all the parties and may issue execution accordingly.

Duty of justice of the peace.

Approved, February 9, 1852.

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[No. 314.]

AN ACT

To provide for the compensation of jurors and witnesses in the county of Tuscaloosa.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, jurors in the county of Tuscaloosa and witnesses summoned to attend the probate and circuit courts of said county shall be entitled to one dollar and fifty cents per day for every day's attendance and four cents per mile for travelling to and from the court house.

\$1.50 a day and mileage.

Sec. 2. And be it further enacted, That all laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 7, 1852.

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[No. 315.]

AN ACT

To regulate the pay of petit jurors in the county of Covington.

Sec. 1. Be it enacted by the Senate and House of Re-

presentatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, for every final judgment entered up in the circuit court in the county of Covington, the successful party shall pay into the hands of the clerk the sum of three dollars; and for every verdict rendered by the jury the successful party shall pay into the hands of the clerk, the sum of six dollars, which shall by the clerk be equally divided betwixt the two juries summoned to attend said court on or before the adjournment on each day; which several amounts shall be taxed in the bill of costs and collected out of the unsuccessful parties in the suit and refunded to the parties who first paid the same.

Jury tax.

Sec. 2. Be it further enacted, That upon the trial of every state case tried in said court, whenever the defendant shall be convicted, the jury trying the case shall be entitled to receive from the party convicted the sum of six dollars in each case, which shall be paid over to the jury; and no defendant in a state case after conviction shall be allowed to confess judgment for the fine and costs nor shall he be discharged from custody until the jury fee be paid as aforesaid; and no judgment shall be entered up or verdict recorded in a civil suit until the jury fees be paid, and it shall be the duty of the judge presiding to see that this act is fully complied with.

In State cases.

Sec. 3. Be it further enacted, That there shall not be any tax fee collected out of the unsuccessful parties for the use of the county after the passage of this act.

Unsuccessful party exempt from tax.

Sec. 4. And be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 30, 1851.

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[No. 316.]

AN ACT

To provide for the indigent sick in the counties of Autauga, Coosa, Pike and Coffee.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That when any person is sick in the county of Autauga or Coosa and in such destitute condition as to demand public charity and prompt attention, such person during sickness shall be a public charge on the county.

where persons are a public charge.

Sec. 2. Be it further enacted, That if any person dies in either of said counties leaving no friends or estate

Burial of the indigent.



to defray the expenses of burial, such expenses shall be a public charge on the county.

Sec. 3. Be it further enacted, That in the event of sickness or death, as contemplated in the two preceding sections, the commissioners of revenue and roads in the county where such sickness or death occurs must order the county treasurer to pay reasonable expenses for such sickness or burial to the party incurring the same, upon presentation of the account verified by the affidavit of any responsible witness not directly interested therein.

Duty of com'rs' court.

Sec. 4. And be it further enacted, That the provisions of the preceding sections of this act be and they are hereby extended to the indigent sick of the counties of Pike and Coffee.

Extended.

Approved, February 10, 1852.

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[No. 317.]

AN ACT

To alter the time of electing a keeper of the poor for the county of Jefferson.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the commissioners' court of the county of Jefferson to elect a keeper of the poor of said county on the first Monday in December in each and every year, instead of the time now prescribed by law.

Election on 1st Monday of December.

Approved, December 5, 1851.

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[No. 318.]

AN ACT

To establish a poor house in the county of Russell.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of the probate court and commissioners of roads and revenue for the county of Russell be and they are hereby authorised, whenever they or a majority of them shall deem it necessary or expedient, to purchase and receive title to any quantity of land lying within said county, not exceeding one section, which title shall be made to the judge of the probate court of said county for the time being and his successors in office and shall vest in and be the

Comm'rs' court may purchase land.

property of the county of Russell for the purpose of erecting thereon and maintaining a poor house.

Sec. 2. Be it further enacted, That the said judge and commissioners are hereby authorised to contract for the building of all necessary houses for the purposes herein mentioned and every thing necessary to be done; the expenses of which purchase of land and all other expenses necessary for the erecting said houses and appurtenances shall be paid out of the moneys in the county treasury of the county of Russell.

May have buildings erected for poor house.

Sec. 3. Be it further enacted, That whenever it shall appear to the court of commissioners of roads and revenue of Russell county that any person or persons is or are a subject of public charity or support, he, she or they, so soon as they may be a poor house in said county, may be ordered by said court to be conveyed to said poor house to be taken care of and supported; and said court is hereby authorised to employ some suitable person to oversee and superintend said poor house and to take care of all the poor persons of said county placed within the same.

Paupers may be received.

Sec. 4. Be it further enacted, That it shall be the duty of the said commissioners' court, or a majority of them, to meet at said poor house at least once in every six months, for the purpose of examining into the condition of the land, buildings, furniture and treatment of the paupers; and the said court shall have power to dismiss any one who may be selected as superintendent from the charge of said poor house at the pleasure of said court, and to make all such rules and regulations as to them may seem proper with due regard to economy and the comfort of the poor.

Comm'rs shall meet at poor house.

Sec. 5. Be it further enacted, That if any person or persons shall, by the authority aforesaid, be conveyed to said poor house to be taken care of and supported, he, she or they may be removed therefrom by said court whenever in the opinion of the court such person or persons shall cease to be a subject of public charity.

Power of court.

Sec. 6. Be it further enacted, That at the first court of said commissioners of roads and revenue after said poor house shall be built, the said court shall appoint one discreet person in each captain's beat to act as overseer of the poor in their respective beats, whose duty it shall be to report to each term of said court what person or persons is or are within his beat properly the subjects of public charity and support, and whether such person or persons have gained a legal residence in said county; and the said court shall inquire into the facts and make such order as is required by

Overseers of the poor to be appointed.

the third section of this act, or such other order, if they should determine against such request, as said court shall deem proper and expedient; and each overseer so appointed shall remain in office one year; and said court may remove any overseer at pleasure and fill all vacancies occasioned by death, removal or otherwise.

Sec. 7. Be it further enacted, That said judge and commissioners shall keep a book and enter therein a statement of disbursements and receipts, as well as a general record of all their proceedings in relation to said poor house and its inmates and make an annual report of the same, to be entered upon said book; said book shall at all times be subject to the inspection of any citizen of Russell county.

Record of proceedings shall be kept.

Sec. 8. Be it further enacted, That before any superintendent who may be appointed to take charge of said poor house shall enter upon the discharge of his duties as overseer, he shall enter into bond with security, payable to the judge of the probate court and his successor in office, to be approved by said commissioners' court and in such penalty as the court may direct, conditioned for the faithful performance of his duties as superintendent of said poor house; and said bond shall not be void on the first recovery, but may be sued on and a recovery had as often as the judge and commissioners may be of opinion that the conditions thereof have been violated.

Superintendent shall qualify.

Sec. 9. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be repealed.

Repeals.

Approved, December 16, 1851.

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[No. 319.]

AN ACT

To provide for the support of lunatic paupers of the county of Franklin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the commissioners' court of revenue and roads of the county of Franklin be empowered to make an allowance equal to the sum paid for keeping paupers at the poor house of said county for the support of such lunatic paupers of said county as said court shall by proof be satisfied are proper subjects of public support, which allowance shall be paid to such person or persons as may contract for keeping said

Powers and duties of com'rs court.



lunatic paupers, under such rules and restrictions as said court may adopt.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed. Repeals.

Approved, February 4, 1852.

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[No. 320.]

AN ACT

To regulate the keeping of paupers in the county of Marshall.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue for the county of Marshall shall, on the first Monday in October in each and every year, cause the paupers in said county, to be let out publicly at the court house door in said county, and each one separately, to the lowest responsible bidder, who shall be required to give good and sufficient bond, payable to the judge of probate of said county of Marshall and his successors in office, in such sum as he may require, conditioned for the maintenance and good treatment of such pauper or paupers.

Paupers to be  
let to lowest  
bidder.

Sec. 2. And be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be and the same are hereby repealed. Repeals.

Approved, February 5, 1852.

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[No. 321.]

AN ACT

To repeal an act to establish justices' courts in the county of Marion, approved 5th January, 1845.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act entitled an act to establish justices' courts in the county of Marion, approved January 5th, 1845, be and the same is hereby repealed.

Approved, February 7, 1852.

[No. 322.]

## AN ACT

Defining the duty of justices of the peace in relation to patrols  
in the county of Chambers.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafte it shall be the duty of the justices of the peace in and for the county of Chambers, State of Alabama, to appoint patrol detachment or detachments in each of their respective beats only when said justices as aforesaid shall deem it necessary to do so, or when, upon the information of any citizen or citizens of said beat, that there is about to be or is at the time of said application an unlawful assemblage of negroes then together or about to take place, or that they apprehend the same; and upon said information, it shall be the duty of the justice of the peace of said beat as aforesaid forthwith to order out a patrol detachment or detachments under the laws now regulating the same; and that the said patrol detachment or detachments, as the case may be, only be required to perform patrol duty for such term of time as the said justice in his judgment may think the emergency of the case may require; and that the leader of said patrol detachment be required to make his return to the justice of the peace in the beat where such appointment be made, at the expiration of the term of time for which he may have been appointed. All laws in contravention of this act be and the same are hereby repealed.

Appointment of  
patrols regulated.

Approved, January 31, 1852.

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[No. 323.]

## AN ACT

To establish justices' courts in the county of Hancock and to  
regulate the proceedings therein.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the justices of the peace in the county of Hancock shall meet at the muster-ground in each and every beat in said county and shall hold a court once a month, to be holden on a day to suit the convenience of the said justices of the peace.

Monthly courts.

Sec. 2. Be it further enacted, That if one of said justices should fail to attend any of said courts, then and in that case one of the justices of the peace shall have power

One justice  
competent.

to transact all business which may come before said court or courts.

Sec. 3. Be it further enacted, That all property levied on by the constables of the several beats in said county shall be sold on the same day and at the same place that said justices' courts are held, except in cases where the property is immoveable or cannot easily be removed; then and in that case the property levied on by the constable or sheriff of said county shall be sold as is now provided by law.

Constables' sales at the court-ground.

Sec. 4. And be it further enacted, That the provisions of an act approved January 20, 1848, to establish jury trials in justices' courts in the county of Walker, be and the same is hereby extended and shall apply to the county of Hancock, any law to the contrary notwithstanding.

Provisions of a act extended.

Approved, February 5, 1852.

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[No. 324.]

#### AN ACT

To repeal certain acts therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act entitled "an act to regulate the proceedings in justices' courts in the county of Randolph," approved 13th January, 1844, be and the same is hereby repealed.

Repeals.

Approved, January 28, 1852.

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[No. 325.]

#### AN ACT

To abolish monthly justices' courts in Marshall county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act establishing monthly justices' courts in Marshall county and approved the fifth day of January, 1850, be and the same is hereby repealed.

Repeal.

Approved, February 9, 1852.



[No. 326.]

## AN ACT

To authorise the commissioners of roads and revenue in the county of Walker to levy a county tax.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the commissioners of roads and revenue, with the concurrence of the probate judge, in the county of Walker, be and they are hereby authorised to levy a county tax on the state tax; such tax, if levied, shall never exceed fifty per cent. on the state tax in any one year; and one-half of said tax, if levied, shall be discharged in any legal claims against the county recorded or otherwise.

May levy tax.

Sec. 2. Be it further enacted, That it shall not be lawful for the commissioners of said county to levy any other tax than is authorised by the provisions of this act.

Restriction.

Sec. 3. Be it further enacted, That the commissioners of roads and revenue of said county of Walker failing or refusing to comply with the provisions of this act, shall be fined not less than twenty nor more than fifty dollars, with all cost of suit; and it is hereby made the duty of the judge of probate of said county, or his successor in office is hereby required to prosecute each commissioner so offending before any court having jurisdiction over the same; and it is hereby made the duty of the sheriff of said county, under the instruction of the probate judge, to collect the fines aforesaid when lawfully assessed and pay over the same to the county treasurer for county purposes; and said sheriff shall be entitled to the same fees that he is entitled to for like services in other cases.

Penalty on court for failing.

Sec. 4. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 20, 1851.

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[No. 327.]

## AN ACT

To extend the time of payment and settlement of the taxes of Marengo, Sumter and Macon counties.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the time required by law for Charles B. Mason, tax collector for the county of Marengo, to account for and pay

into the treasury of the state the taxes for 1851 for said county, be and the same is hereby extended to the 20th day of February, 1852: Provided, That this act shall not take effect until the securities on the official bond of the said Charles B. Mason first file their assent in writing under their hands and seals in the office of the probate judge of Marengo county and a duplicate thereof in the office of the comptroller of public accounts.

Time of pay-  
ment extended.

Sec. 2. And be it further enacted, That the provisions of this act apply to Andrew L. Neville, tax collector of Sumter county, and To Thomas L. McGowen, tax collector of the county of Macon.

Provisions ex-  
tended.

Approved, December 12, 1851.

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[No. 328.]

AN ACT

To authorise the commissioners' court of the county of Henry to levy a special tax to build a jail in said county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of Henry county be and they are hereby authorised to levy a special tax for the purpose of building a jail in said county: Provided, however, That said tax shall not exceed twenty-five per centum of the present state tax any one year so levied; said tax to be assessed and collected by the assessor and collector of the state and county taxes.

May levy tax.

Sec. 2. And be it further enacted, That said commissioners' court be authorised to appoint five competent persons, citizens of said county, to act as a building committee, whose duty it shall be to contract for and superintend the building of said jail, the said court allowing them reasonable compensation for their services.

Building com-  
mittee.

Approved, January 12, 1852.

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[No. 329.]

AN ACT

To authorise the commissioners' court of Marengo county to levy a special tax to build a county jail.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of Marengo county be and

they are hereby authorised to levy a special tax, not to exceed fifteen per cent. annually, for two years, on the state tax, for the purpose of building a jail for said county.

Levy a tax.

Sec. 2. And be it further enacted, That said court is authorised to contract for the building of said jail at as early a day as practicable and on such terms and conditions as it may prescribe.

May contract for building.

Approved, January 12, 1852.

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[No. 330.]

AN ACT

To authorise the commissioners' court of the county of Washington to levy a special tax.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue in and for the county of Washington be and they are hereby authorised annually to levy and cause to be collected such a per cent. upon the state tax as may in their discretion be necessary to provide for the compensation of the judge of probate and clerk of the circuit court in said county, which, with the perquisites of their respective offices, may be sufficient to make up to each officer the sum of five hundred dollars per annum.

May levy a tax.

Approved, February 9, 1852.

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[No. 331.]

AN ACT

Supplemental to an act approved 5th February, 1850, to locate the county site of Washington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James G. Hawkins, James S. Malone, James Johnson, Ransom Howard and William S. Thompson be and they are hereby appointed commissioners for the county of Washington, and shall be entitled for their services two dollars each per day for the time they may serve.

Comm'rs appointed.

Sec. 2. Be it further enacted, That said commissioners shall proceed to select a suitable place for the permanent location of the county site of said county of Washington; Provided, That said location shall be within six miles of Highland Pond, and as near in the direction to the centre

Shall select county site.



of said county from the place in said county known as Highland Pond as a suitable location can be found.

Sec. 3. And be it further enacted, That sections 5, 6, 7 and 8 of the act approved 5th February, 1850, be and the same are hereby continued in force; and that the commissioners appointed by this act are hereby authorised and required to carry out the provisions of the act referred to, except as to the second provision in the fifth section of said act, and that they contract for forty acres of land at the place selected by them, instead of twenty acres, as provided for in the act, to which this is a supplement.

Act continued  
in force.

Approved, February 10, 1852.

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[No. 332.]

# AN ACT

To change the boundary line between the counties of Monroe and Conecuh.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the stage road now leading from the Burnt Corn post office by Neil McMillan's shall be and the same is hereby established the boundary line between the counties of Monroe and Conecuh.

Line defined.

Approved, February 10, 1852.

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[No. 333.]

# AN ACT

To attach certain citizens of Henry county to the Abbeville beat.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, all that portion of Henry county being and lying south of Abbeville, in Henry county, and in the fork of the Big and Little Abbey Creeks, be and the same is hereby attached to the Abbeville beat; any law, usage or custom to the contrary notwithstanding.

Line defined.

Approved, January 31, 1852.

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[No. 334.]

# AN ACT

To repeal an act approved January 26, 1846, declaring certain persons liners between the counties of Fayette and Walker.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened,  
That an act entitled "an act for the benefit of certain persons therein named," approved January 26, 1846, be and the same is hereby repealed.

Repeals.

Approved, January 2, 1852.

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[No. 335.]

# AN ACT

To change the line and attach a part of the county of Tuscaloosa to the county of Jefferson.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all that territory heretofore comprised in the county of Tuscaloosa, lying north of a line commencing at the mouth of Mill creek, where the same is discharged into Shade's creek, thence up said Mill creek to the mouth of Tan-yard branch, thence along that branch to the mouth of L. L. Ellis' spring branch, thence up the branch to said spring, thence west of north so as to strike Tan-yard branch at D. M. Britton's tan-yard, thence along said branch to Rock mountain to the Jefferson county line, shall from and after the approval of this act become and form a part of the county of Jefferson.

Part attached.

Sec. 2. And be it further enacted, That the persons and property in the territory herein attached shall be subject to taxation and shall perform public service, civil and military, in the county of Jefferson.

Subject to tax.

Approved, February 9, 1852.

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[No. 336.]

# AN ACT

Declaring James Hoffman and Wiseman Cork, liners between the counties of Pickens and Tuscaloosa, citizens of Tuscaloosa county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James Hoffman and Wiseman Cork, who live on the line between the counties of Pickens and Tuscaloosa, shall hereafter be citizens of Tuscaloosa county and be liable to all the duties and entitled to all the rights and privileges of citizens of Tuscaloosa county.

Citizens of Tuscaloosa co.

Approved, February 9, 1852.

[No. 337.]

## AN ACT

To change the line of Jackson and Marshall counties.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter all that portion of Marshall county beginning at or on the range line at the south-west corner of township five, range five, and running south to a tract known as Orr's Reservation, thence west with said reservation line to the part of the same owned by Sampson Wilder, thence eastwardly on the line dividing the land of said Wilder from those of Samuel Cunningham to the eastern boundary of said reservation, thence south so as to include the land of William A. McCarny, in Jackson county, to the Tennessee river.

Line defined.

Sec. 2. And be it further enacted, That all law or laws conflicting with this act be and the same are hereby repealed.

Repeals.

Approved, February 5, 1852.

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[No. 338.]

## AN ACT

To appoint an additional surveyor in the counties of Cherokee and Fayette.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the judge and commissioners of roads and revenue for the counties of Cherokee and Fayette be and the same are hereby authorised to appoint an additional surveyor for said counties, if in their opinion public convenience requires it, who shall be governed by the same laws and regulations as now provided for the regulation of county surveyors.

Additional surveyor to be appointed.

Approved, February 10, 1852.

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[No. 339.]

## AN ACT

To authorise the appointment of an additional surveyor for Butler county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of revenue and roads for Butler county are hereby authorised to appoint an additional

Additional surveyor to be appointed.



county surveyor, if they deem proper, who shall in all respects be governed by the laws relating to county surveyors.

Approved, February 7, 1852.

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[No. 340.]

AN ACT

To repeal an act entitled "an act to repeal an act to consolidate township fifteen of range thirty and thirty-one in Russell county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act entitled "an act to repeal an act to consolidate township fifteen of range thirty and thirty-one, in Russell county," approved the 4th February, 1846, be and the same is hereby repealed.

Repeals.

Approved, February 9, 1852.

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[No. 341.]

AN ACT

To authorise the commissioners' court of Cherokee county to lay out and establish a private road.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of the county of Cherokee be authorised to lay out and establish a private road from the residence of Jonah Howell, a citizen of said county, to his plantation: Provided, The same shall be recommended by a jury of review: And provided further, That the said Jonah Howell shall before the opening of the same pay to the owner or owners of the land through which said private road has been laid out all such damages as shall be assessed by the jury of review as now provided by law.

Road.

Proviso.  
Proviso.

Approved, February 10, 1852.

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[No. 342.]

AN ACT

Authorising the judge of probate and commissioners of revenue and roads for Macon county to sell certain lands therein mentioned.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That the judge of probate and commissioners of revenue and roads for the county of Macon be and they are hereby authorised to sell and dispose of the lands now belonging to said county on which the poor house is situated; and the proceeds of the sale of said lands shall be applied by them to the purchase of and payment for other lands for the purposed of a poor house for said county, in pursuance and under the provisions of an act authorising the erection of a poor house for the county of Macon.

May sell certain lands.

Sec. 2. Be it further enacted, That if said lands so authorised to be sold shall not yield a sufficient sum, the said judge of probate and commissioners of revenue and roads may appropriate other moneys for the purpose of purchasing other lands and erecting a poor house thereon.

Powers of commissioner's court.

Sec. 3. And be it further enacted, That the deed of said judge of probate and commissioners of revenue and roads, or of a majority of them, shall be effectual to pass the title of said lands.

Effect of deed.

Approved, December 5, 1851.

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[No. 343.]

AN ACT

Regulating the pay of certain officers in the county of Shelby for ex officio services.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That section three of an act entitled "an act to reduce and pay the expenses of the county of Shelby, and for other purposes" approved 4th of February, 1846, be and the same is hereby repealed.

Repeals.

Sec. 2. Be it further enacted, That from and after the passage of this act, the clerk of the circuit court, the judge of the probate court and the sheriff of the county of Shelby shall receive for their extra services yearly such compensation as the commissioners' court of said county may deem just and reasonable, not to exceed fifty dollars.

Compensation to be allowed officers.

Sec. 3. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, December 5, 1851.

[No. 344.]

## AN ACT

To alter and amend "an act to authorise the election of eight commissioners of roads and revenue in the county of Conecuh," approved 22d January, 1845.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall not be lawful for any voter in the county of Conecuh, at any election for commissioners of the court of roads and revenue in said county, to vote for any person or persons for the office of commissioner of roads and revenue in said county who resides without the limits of the captain's beat in said county in which said voter may reside.

Approved, December 5, 1851.

Regulation for  
voting.

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[No. 345.]

## AN ACT

In relation to the commissioners of roads and revenue for Talladega county.

Whereas, at an election held on the first Monday in August, 1850, for a sheriff and tax collector of Talladega county, the polls were also opened and an election held for four commissioners of roads and revenue for said county; and whereas, at such election Marcus M. Duncan, William Mallory, Andrew Cunningham and Duncan Brown received the largest number of votes for such commissioners, and the returns having been regularly made by the returning officers of the several precincts in said county to the sheriff thereof, he so declared, but declined to make returns of said election to the judge of probate as required where elections have been regularly held; and whereas, in consequence of the failure of said sheriff to make return as aforesaid, the said judge of probate refused to qualify and commission the persons above named; therefore-----

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sheriff of Talladega county be and he is hereby authorised and required to make returns of said election for commissioners of roads and revenue to the judge of probate of said county; and it shall thereupon be the duty of said judge of probate to qualify and commission as commissioners of roads and revenue for said county the four persons who, according to such returns, received the largest

Preamble.  
  
Sheriff shall  
make return of  
elections.



number of votes at said election, who shall hold said office for the space of three years from the date of said election.

Sec. 2. And be it further enacted, That the acts of the persons so qualified and commissioned under the provisions of the first section of this act heretofore done by them in the capacity of commissioners be and the same are hereby legalised and made valid: Provided, Nothing herein contained shall be so construed as to legalise or sanction any act or proceedings of said persons in the capacity of commissioners which would not have been lawful and proper if done by commissioners regularly elected and duly qualified and commissioned.

Acts of the  
comm'rs legal-  
ised.

Approved, December 10, 1851.

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[No. 346.]

#### AN ACT

To provide for the building of a jail in Talladega county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate and commissioners of roads and revenue be and they are hereby authorised to levy such tax on the persons and property of the citizens of said county of Talladega liable to taxation, and all other subjects of taxation as now provided for by law, as shall be sufficient for the building of a jail in the town of Talladega, the seat of justice for said county: Provided, Said tax shall be levied and collected in two equal annual proportions: And provided further, That the said tax shall not exceed two thousand dollars in each year.

May levy spe-  
cial tax.

Sec. 2. And be it further enacted, That the said judge and commissioners shall have power to contract for the building of said jail by letting the same to the lowest bidder, requiring such contractor as may engage the work to enter into bond with security, payable to the said judge, with proper penalty and conditions for the faithful compliance with such contract as may be made for the purposes aforesaid.

Comm'rs court  
may contract  
for building.

Approved, December 11, 1851.

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[No. 347.]

#### AN ACT

To authorise the building a court house in the county of Coffee.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That the judge of probate and commissioners of roads and revenue of the county of Coffee be and they are hereby authorised to levy and cause to be collected a tax in said county, not exceeding fifty per cent. on the state tax, for the express purpose of building a court house and appurtenances in and for said county.

May levy special tax.

Sec. 2. And be it further enacted, That the said commissioners shall be and they are hereby authorised to exercise the powers granted in the preceding section of this act from year to year as may be necessary for the purpose therein expressed.

From year to year.

Approved, December 16, 1851.

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[No. 343.]

AN ACT

Requiring the county treasurer of Jefferson county to pay over certain moneys.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the treasurer of Jefferson county be and he is hereby required to pay over to Nathan Byars the sum of twenty-one dollars and sixteen cents, the amount now in his hands due to James W. Byars, deceased, for state witness certificates.

Shall pay. N. Byars \$21.16.

Approved, November 26, 1853.

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[No. 349.]

AN ACT

Relating to the county treasurer of Russell county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That so much of the third section of an act entitled "an act to make county treasurers and county surveyors of the counties of Marshall, Marion, Russell, Covington, Conecuh and Walker elective by the people," approved 21st January, 1850, as relates to the county of Russell, be and the same is hereby repealed; and hereafter the county treasurer of Russell shall not be required to reside within two miles of the court house.

Repeals.

Sec. 2. And be it further enacted, That it shall be the duty of the county treasurer of the county of Russell to

Duty of county treasurer.

attend at the court house in said county on the first Monday in each and every month for the purpose of transacting any business connected with his office.

Approved, December 5, 1851.

[No. 350.]

AN ACT

To regulate the election of commissioners of roads and revenue in the county of Fayette.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, each battalion in the county of Fayette shall elect one commissioner of roads and revenue, and that each voter and candidate shall be restricted to the limits of the battalion of which he is a citizen.

Elections regulated.

Approved, November 25, 1851.

[No. 351.]

AN ACT

To extend the duties of the sheriff of the county of Hancock, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sheriff of the county of Hancock be and he is hereby authorised to do and perform all the duties of constable of said county, and in the discharge of his duties as such he shall in all respects be governed by the laws of this state regulating the duties and defining the liabilities of constables.

May do the duties of constable.

Sec. 2. Be it further enacted, That the duties of tax collector of said county of Hancock shall, until otherwise provided by law, be discharged by the sheriff of said county; and while engaged in the discharge of said duties, he shall in all respects be governed by the laws of this state in relation to tax collectors, regulating their duties and defining their liabilities.

May do the duties of tax collector.

Sec. 3. Be it further enacted, That before entering upon the duties of constable as herein provided, he shall give bond, payable and conditioned as constables' bonds are now required and in such sum as may be required by the judge of probate in said county, and to be approved by

Shall qualify.



him; and before entering upon the duties of tax collector, he shall also give bond with securities, conditioned and approved in the same manner as tax collectors are by the existing laws required to do, which bonds and sureties shall be subject and liable to all proceedings and recoveries as are authorised or can or may be had against constables and their sureties and tax collectors and their sureties as now regulated by the existing law.

Sec. 4. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed: Provided, Nothing in this act shall be so construed as to prevent the action of constables and the appointment and action of special bailiffs as now provided for.

Repeals.

Proviso.

Approved, January 30, 1852.

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[No. 352.]

AN ACT

To repeal an act entitled "an act to amend the road law in Coosa county."

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act entitled "an act to amend the road law in the county of Coosa," approved 5th February, 1850, be and the same is hereby repealed.

Repeals.

Approved, January 29, 1852.

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[No. 353.]

AN ACT

To legalise the sale of certain lands therein named in the county of Randolph.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the order of sale of the poor house lands made on the fourth day of February, A. D. 1851, in the county of Randolph, by the judge of the probate and commissioners of roads and revenue of said county to sell the following tracts or parcels of land, to-wit: the north-west fourth of the north-west fourth of section number two, township twenty-one, range eleven; and the north-east fourth of the north-east fourth of section number three, township twenty-one, range eleven, known as the poor

Sale confirmed.

house lands in said county, and the sale of said lands made to Thomas L. Thomason on the fourth day of March, 1851, and the title to said lands above described made in pursuance of said order and sale be and the same is hereby legalised to all intents and purposes.

Approved, January 12, 1852.

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[No. 354.]

AN ACT

To authorise the sheriff of Henry county to advertise his sales in the Abbeville Banner, a newspaper published in the town of Abbeville, in said county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the sheriff of Henry county be and he is hereby authorised to publish the sales of all property levied on by him or his deputy in the Abbeville Banner, a newspaper published in the town of Abbeville, in said county; and that such publication so made for the time prescribed by law shall supercede the necessity of any further advertisement.

Sales shall be advertised.

Sec. 2. And be it further enacted, That all laws or parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, January 8, 1852.

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[No. 355.]

AN ACT

To increase the pay of commissioners of revenue and roads for Macon county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the commissioners of revenue and roads for the county of Macon shall each be entitled to receive the sum of three dollars per day for each and every day they may be engaged in examining and correcting the books of the tax assessor; the same to be paid in the manner now required by law.

\$2.00 per day.

Approved, January 8, 1852.

[No. 356.]

## AN ACT

To define more fully the duties of the commissioners of the turnpike road in Lawrence county granting to John Moore and D. G. Ligon by charter from the legislature of this state, approved the 3d February, 1846.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the commissioners of the turnpike road in the county of Lawrence, in this state, granted to John Moore and D. G. Ligon by charter from the general assembly of this state, approved 3d February, 1846, in addition to the duties now required of them by law, to review and examine the condition of said turnpike road once in the month of January or February of each year and at least twice in each year after the month of February and they shall make a report of the condition of said road under oath and in person before the grand jury of said county at each session of the circuit court thereof; and it is hereby made their duty so to report whether said road be in the repair required by the charter aforesaid or not.

Additional duties imposed.

Sec. 2. Be it further enacted, That hereafter, when any vacancy shall occur in said commissioners by death, resignation or otherwise, such vacancy shall be filled by the commissioners' court of roads and revenue for said county; and it shall be the duty of the person or persons so appointed to accept said appointment; unless he or they shall be excused by said commissioners' court; and said commissioners shall be exempt from the duties of working on public roads, mustering and serving on grand or petit juries; and they shall be entitled to demand and receive from John Moore and D. G. Ligon, or their associates or assignees of said franchise, two dollars each for each day they may be engaged in reviewing said road; and they shall moreover be entitled to the same compensation for attending before the grand jury as is now provided by law for apportioners of roads who report before the grand jury the condition of the road in their respective beats.

Vacancies, how filled.

Sec. 3. And be it further enacted, That should said commissioners fail or neglect to discharge any one of the duties enjoined on them by this act or by the original charter aforesaid, they shall be liable to indictment and may upon conviction thereof be fined in any sum not exceeding one hundred dollars: Provided, That all reasonable excuses shall be heard; and it shall be sufficient in the indictment to alledge that they have been duly appointed

Penalty on comm'rs for failing to do duty.



commissioners of said turnpike road and have failed and neglected to discharge the particular duty or duties in default.

Approved, January 10, 1852.

[No. 357.]

AN ACT

To regulate the election of commissioners of revenue and roads for the county of Marion.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That for the purpose of electing four commissioners of revenue and roads in and for the county of Marion, the said county is hereby divided into four districts; and that said districts shall be determined and divided by the township line dividing townships eleven and twelve and the line dividing ranges thirteen and fourteen; that the first district shall comprise all the territory of said county lying north and west of said lines; the second district shall comprise all that part of said county lying north and east of said lines; the third district shall comprise all that portion of said county lying south and east of said lines; and the fourth district shall comprise all that portion of the county lying south and west of said lines.

County divided  
into 4 districts.

Sec. 2. And be it further enacted, That hereafter the commissioners of revenue and roads shall be elected from each of said districts, one for each, in the same manner as is now provided by law.

Comm'rs to be  
elected by each  
district.

Approved, January 12, 1852.

[No. 358.]

AN ACT

For the relief of the judge of the probate court and the sheriff of Hancock county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the judge of the probate court and sheriff of Hancock county shall not be required to live within two miles of the seat of justice of said county; any law, custom or usage to the contrary notwithstanding.

Relieved.

Approved, January 28, 1852.

[No. 359.]

## AN ACT

To authorise sheriffs' sales in Pickens county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sheriff of Pickens county shall, from and after the first day of April next, expose for sale all property belonging to defendants in execution or attachment living in said county within five miles of the town of Memphis, in said county, between the usual hours of sale, on the third Monday of each month; and the said sales shall with the exception be as heretofore directed by law in all respects: Provided, That this act shall not repeal the act authorising sales at Fairfield in said county.

Sales at Memphis.

Proviso.

Approved, January 29, 1852.

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[No. 360.]

## AN ACT

To authorise the commissioners' court of Lauderdale county to pay the sheriff of said county for ex officio services.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That in addition to the amount now allowed by law, the commissioners of roads and revenue be and they are hereby authorised to pay to the sheriff of Lauderdale county the sum of fifty dollars per annum for such ex officio services: Provided, The same shall be paid out of the county treasury.

Approved, January 28, 1852.

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[No. 361.]

## AN ACT

To authorise the judge of the court of probate of Randolph county to make titles to town lots in the town of Wedowee.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of the court of probate of Randolph county be and he is hereby authorised to convey by deed the title to such lots lying in the town of Wedowee, in said county, as have not been conveyed under any previous law, which conveyance shall be made under the same

May convey certain lots.

rules and regulations by which the judge of the county court of said county was authorised to convey the title to lots lying said town at the passage of the act approved February, 1850, entitled "an act establishing courts of probate, and for other purposes."

Sec. 2. And be it further enacted, That it shall be the duty of said judge to execute and deliver the proper deed whenever requested to the person entitled to the same; and for such service said judge shall receive one dollar from the person requiring the service to be performed.

Deed to be delivered.

Approved, January 28, 1852.

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[No. 362.]

AN ACT

To repeal in part an act therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the fourth section of an act approved the 9th of February, 1850, to require the treasurers of the counties of Chambers, Shelby, Barbour, Benton, Butler, Walker, Clarke, Randolph and Pike to make semi-annual reports, and for other purposes, be and the same is hereby repealed so far as relates to the county of Butler.

Approved, January 29, 1852.

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[No. 363.]

AN ACT

To require the judge of probate and commissioners of roads and revenue of the county of Walker to lay off said county into commissioners' districts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the commissioners of roads and revenue and probate judge of the county of Walker, on or before the twenty-fifth of December, 1852, shall divide the county into four districts as nearly equal as may be convenient for the people of said county; which districts, when formed, shall be styled commissioners' districts.

Court shall lay off 4 districts.

Sec. 2. And be it further enacted, That hereafter, in all elections for commissioners of roads and revenue in the

Comm'r to be elected in each district.



county of Walker, there shall be elected one commissioner in each district in said county; any law or usage to the contrary notwithstanding.

Approved, January 6, 1852.

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[No. 364.]

# AN ACT

To provide for the location of the court house in the county of Coffee.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the sheriff of Coffee county, on the first Monday in August next, to cause the polls to be opened and an election held at the several precincts in said county, for the permanent location of the court house of said county; said election shall be conducted in all respects as are conducted the general elections in this state; the managers shall be appointed as by law is provided for the appointment of other elections; and the managers and clerks of said election shall each take the oath by law prescribed for managers and clerks of other elections, and be subject to like penalties for a violation of any of their duties; the returns of said election shall be made to the sheriff of said county within three days thereafter, unless prevented by high waters, fraud, accident or unavoidable cause; upon the coming in of said returns, it shall be the duty of the sheriff and the managers who shall have conducted the election at the present county site to meet together at the court house and compare, count and all up all the votes polled; and if it shall appear that any one place voted for shall have received a majority of all the votes given in, they shall declare such place the permanent seat of justice for the county of Coffee.

Sheriff to hold election on 1st Monday in August, 1852.

Objects.

Election regulated.

Sec. 2. Be it further enacted, That no person shall be eligible to vote in said election who is not legally authorised to vote for members to the general assembly; and any person voting illegally at said election shall incur the same penalties as are by law now imposed upon persons voting illegally for members of the general assembly; and said election may be contested for fraud, gross mismanagement or illegal voting in the same manner, as near as may be, as the elections of sheriffs and clerks of the circuit courts are now contested; and any fraud committed at said election shall be punished as similar frauds at other elections are now punished.

Eligibility of voters.

Sec. 3. Be it further enacted, That the towns of Wellborn, Elba and Indigo Head only shall be in nomination; and the town receiving the majority of all the votes cast shall be the permanent seat of justice of said county: Provided, The citizens of said town shall build a good and substantial court house and jail free of charge to said county; and so soon as said improvements shall be completed, it shall be the duty of the sheriff, clerk of the circuit court and the judge of probate to remove their respective offices to said town.

Places to be voted between.

Sec. 4. Be it further enacted, That any officer who shall fail or refuse to perform any duty by this act enjoined, either in opening, holding, managing or returning said election, or who shall fail or refuse to appoint all proper managers, or to do any other act or thing whereby the object of this act shall be defeated, such officer shall be subject to a fine not exceeding two hundred nor less than twenty dollars, to be recovered on motion before the circuit court for the use of the county of Coffee by any person making the same, and after three days' previous notice to said officer of said motion.

Penalty on officer for neglecting duty.

Sec. 5. And be it further enacted, That if upon counting up the votes at the election hereinbefore directed, it shall appear that neither of the three towns in nomination shall have received a majority of all the votes cast, then and in that event it shall be the duty of the sheriff of said county to advertise another election, to be held on the first Monday in October thereafter, to determine the will of a majority of the voters of said county as between the two towns having the highest number of votes at the election on the first Monday in August, which two only shall be in nomination at the second election; and all the provisions of this act in relation to the first election shall equally apply to the second election, if the same shall be required to be held by this law.

Neither place having a majority, a second election shall be held.

Approved, January 30, 1852.

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[No. 365.]

# AN ACT

In relation to sheriffs' sales in the county of Franklin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the 1st day of April next, it shall be and it is hereby made the duty of the sheriff of the county

Sales regulated.

of Franklin to make regular sales on the third Monday in each and every month thereafter, at Russellville, in said county, of all such property belonging to defendants living in said county south of that portion of said county within which sales are directed by existing laws to be made at Tusculumbia, and east of range number thirteen, west, as he may have levied on by virtue of any execution, attachment, or other process; and that such sales (with the exception as to the place of sale) be conducted in the same manner and under the same rules, regulations, restrictions and penalties now prescribed by law as to other sheriffs' sales in said county.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed. Repeals.

Approved, January 30, 1852.

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[No. 366.]

AN ACT

To increase the fees of the clerk of the circuit court of Baldwin county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the clerk of the circuit court of the county of Baldwin be and he is hereby authorised to charge one hundred per cent. over the fees now allowed by law.

100 per cent  
advanced.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and they are hereby repealed, so far as it relates to the county of Baldwin.

Repeals.

Approved, February 5, 1852.

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[No. 367.]

AN ACT

To regulate sales by constables in the county of Marion.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, sales by constables shall be at the place of holding justices' courts in each beat in Marion county, except the defendant in execution shall elect for such sale to take place

Sales, where  
held.



at his usual place of residence or upon the premises; in which case the sale shall be had at the election of such defendant.

Sec. 3. And be it further enacted, That all laws contravening the provisions of this act are hereby repealed.

Repeals.

Approved, February 5, 1852.

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[No. 368.]

# AN ACT

To repeal in part an act approved 21st January, 1850, relative to the county treasurer of Marion county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the third section of an act approved the 21st January, 1850, relating to the county treasurer of Marshall county and others, be and the same is hereby repealed so far as it applies to the county of Marion.

Repeals.

Approved, February 5, 1852.

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[No. 369.]

# AN ACT

To allow additional compensation to the sheriff of Greene county for ex officio services.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue of Greene county be authorised and empowered to allow the sheriff of Greene county a sum not to exceed one hundred and fifty dollars, in addition to the sum now allowed by law to said sheriff for ex officio services, if, in their opinion, the same be expedient: Provided, however, That the said sum so allowed shall be paid out of the funds belonging to the county treasury of said county.

\$1.50 allowed.

Proviso.

Approved, February 7, 1852.

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[No. 370.]

# AN ACT

To authorise the commissioners' court of Madison county to compensate Robert S. Spraggins.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of Madison be and they are

hereby authorised to compensate Robert S. Spraggins, of the county of Madison, for certain services rendered in preparing indexes for the books of the clerk's office of the county of Madison.

Approved, December 5, 1851.

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[No. 371.]

# AN ACT

Providing for the removal of the county site of the county of DeKalb.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sheriff of DeKalb county shall, on the first Monday of May next, cause to be opened and held an election at the several election precincts in said county for the place of the permanent seat of justice of said county; said election shall be conducted in all respects after the manner of conducting the general elections of this state; the managers shall be appointed by the persons and after the manner by law provided for the appointment of managers of elections; and the said managers and the clerks of said election shall each take the oaths now by law prescribed for managers and clerks of elections and be subject to all the pains and penalties incident to a violation of any of their duties; the returns of said election shall be made to the sheriff within three days thereafter, unless prevented by accident or other unavoidable cause; it shall, upon the coming in of said returns, be the duty of the said sheriff and the managers at the court house to meet together and compare and add up all the votes polled and declare the place receiving the largest number of legal votes the seat of justice for said county; no person shall be entitled to vote in said election who is not legally authorised to vote for a member to the general assembly; any person voting illegally shall incur the pains and penalties imposed by law upon those voting illegally in other elections, and any illegal vote polled shall be taken from the box and not counted; and said election may be contested for fraud, gross mismanagement or illegal voting; and any fraud perpetrated upon said election in its management or otherwise shall be punished as similar frauds upon other elections are punished.

Election to be held.

Regulated, &c.

Sec. 2. Be it further enacted, That Daniel Buckhalter, Alfred Long, John M. Lankford, William Nicholson, sr.,

County com'rs appointed.

Richard Roberts, Obediah Ward and Joseph Edwards be and they are hereby appointed commissioners for said county of DeKalb to select contract for or receive by donation a suitable site for a new location of the courthouse in said county, to the amount of forty acres or a larger number of acres of land, if upon the opinion of said commissioners the general good of said county requires it.

Sec. 3. Be it further enacted, That the town of Lebanon and new site selected shall be placed in nomination, and the place receiving the greatest number of votes shall be the permanent seat of justice for said county; each ticket shall have the word "Lebanon" or "new site" written on it and nothing else; should "new site" receive the largest number of votes then it shall be the duty of the sheriff to so inform the said commissioners, and they shall be required to proceed to lay off the town and superintend the sale of the lots, the proceeds of said sales to be placed in the hands of the county treasurer to be applied exclusively to the building of a court house and other public buildings for said county after all other necessary expenses are paid.

Places in nomination.

Comm'rs shall lay off town.

Sec. 4. And be it further enacted, That any officer who shall fail or refuse to perform any of the duties by this act required, either in opening, holding, managing or returning said election, or who shall fail or refuse to appoint any manager or do any other act whereby the object of this act shall be defeated, such officer shall be subject to a fine not exceeding two hundred dollars, to be recovered on motion in the circuit court for the use of the county by any person making the same, upon three days' previous notice.

Penalty for failing or refusing to act.

Approved, February 9, 1852.

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[No. 372.]

AN ACT

To alter and amend the patrol laws now in force in the counties of Choctaw and Chambers.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, justices of the peace, in their respective beats, in the counties of Choctaw and Chambers, shall be authorised and empowered to organise and order out patrol detachments only when, in their opinion, the same may be necessary, or when requested by any citizen of said county; and no other pa-

Appointment of patrols regulated and restricted.



trol duty shall be required by law in said counties: Provided, The said justices shall in no instance order the performance of more patrol duty than is now required by law.

Froviso.

Approved, February 9, 1852.

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[No. 373.]

# AN ACT

To amend the road laws in Lauderdale county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the following persons shall be liable to perform road duty in Lauderdale county, in addition to those now liable according to existing laws, commissioners of roads and revenue, justices of the peace, and all apportioners, supervisors and overseers, notwithstanding they have discharged the duties of said offices for two years.

Persons liable  
to work roads.

Approved, February 9, 1852.

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[No. 374.]

# AN ACT

Imposing certain restrictions on the county treasurer of Covington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall not be lawful for the county treasurer of Covington county to have in his employ or in the employ of said county a deputy county treasurer; and that no act hereafter performed or to be performed by any person as deputy county treasurer of the said county shall be valid, but all such acts so performed shall be void to all intents and purposes.

Shall not have  
deputy.

Approved, February 9, 1852.

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[No. 375.]

# AN ACT

Authorising bailiffs' certificates of Russell county to be received by the county treasurer as jury certificates, and to allow them mileage.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That the certificate received by bailiffs summoned by the sheriff of Russell county to attend on the courts of said county shall be received by the county treasurer in payment of taxes as jury certificates are now received, and they shall be allowed the same mileage that jurymen are allowed by law.

Approved, February 9, 1852.

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[No. 376.]

AN ACT

To amend the road law of this state in the counties of Cherokee, Shelby, Talladega and Perry.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be lawful for overseers of the public roads in the county of Cherokee to assign to persons liable to work such road and who may desire it sections of roads to which they have been appointed to be worked by them, and at such times and in such manner as they may choose; and such persons so contracting shall be liable to their respective overseers for all damages the said overseers may sustain from the failure or neglect of said persons to perform their duties as required by law, to be recovered before any justice of the peace or any other court having competent jurisdiction in the county where such overseer may reside: Provided, Nothing in this act shall prevent the prosecution of any overseer of roads so assigning portions of it in the same manner and in the same cases that he would now by law be liable to.

Overseers of roads may assign sections of work.

Proviso.

Sec. 2. And be it further enacted, That all of the provisions of this act be and the same are hereby extended to the counties of Shelby, Talladega and Perry.

Extended to certain counties.

Approved, February 9, 1852.

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[No. 377.]

AN ACT

To amend the road law in Dale county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the acting justices of the peace and their successors in office in

Justices of peace apportioners of roads.

the county of Dale be and they are hereby constituted and appointed apportioners and supervisors of the public roads in their respective beats; and it shall be the duty of the apportioners and supervisors in each and every beat in the county of Dale to assemble on the first Saturday in March next, or as soon thereafter as practicable, and on the first Saturday in March every two years thereafter, at some central or convenient place in the respective beats, and appoint all the overseers they may deem necessary to keep the roads of their beats in good order.

Sec. 2. Be it further enacted, That the apportioners and supervisors shall have power and it shall be their duty to fill all vacancies that may occur in their respective beats by death, removal or otherwise, at any time or within ten days after they may have been notified of such vacancy; and any apportioner or supervisor failing to discharge the duties imposed by this act shall be dealt with according to the laws now in force for failing to apportion hands.

Powers.

Sec. 3. Be it further enacted, That the constables in each of the beats in the county aforesaid shall serve the overseers appointed as provided for in this act with a written notice of their appointment as overseers of the road and return the same to the probate judge of the county within thirty days from the time of the appointment of said overseers by the apportioners and supervisors as provided in this act.

Constable shall serve notice.

Sec. 4. Be it further enacted, That in consideration of the services of said constables in the serving and returning said notices, they shall not be liable to perform road duty; Provided, That any constable failing to discharge the duties required of him by the provisions of this act shall not be entitled to the benefits of the same and shall be subject to the same pains and penalties as overseers of roads for failing to discharge their duties as such.

Constable exempt from road duty.

Sec. 5. Be it further enacted, That the probate judge of the county of Dale shall keep a record of the overseers of roads returned by the constables as provided for in this act, which record shall be evidence of their appointment as overseers of the road in any suit at law or indictment against them as such.

Probate judge shall keep record.

Sec. 6. And be it further enacted, That any overseer who shall be appointed as provided for in this act as the law now in force directs shall be dealt with as heretofore provided by law; any law to the contrary notwithstanding.

Penalty on overseers of road.

Approved, February 9, 1852.



[No. 378.]

## AN ACT

To amend the laws regulating the board of Mobile school commissioners.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the fifth section of an act entitled "an act to amend the laws in force for the creation of a school fund in the county of Mobile," approved the 15th day of February, 1843, be and the same is hereby repealed in so far as the same applies to the Barton Academy, if a majority of the citizens of said county shall vote in favor of a sale as hereafter provided.

Repeals.

Sec. 2. Be it further enacted, That in order to ascertain the sense of the people of Mobile county as to a sale of the Barton Academy, the sheriff and different returning officers in Mobile county at the next August election shall propound the question to the several voters as they hand in their ballots, whether or not they are in favor of a sale of the said academy; and said officers shall endorse "sale" or "no sale" on the back of the respective tickets as each voter shall direct, and the result of said vote shall be certified and sent up as other elections; and if a majority of the votes are in favor of such sale, then said commissioners may sell said academy on such terms as they may think best; but if a majority vote "no sale," then said academy shall not be sold until a majority shall vote in favor thereof; and said commissioners may from year to year or at any general election test the sense of the people of the county as above provided for by endorsing on their tickets.

Question of  
sale of Barton  
academy to be  
submitted to  
the people.

Effect of elec-  
tion.

Sec. 3. Be it further enacted, That any teacher in said county, before receiving any portion of the school fund of Mobile county, shall procure from said board of school commissioners a certificate of competency to teach the branches proposed, which shall be stated in the certificate furnished such teacher; and the clerk of said board shall enter upon some special portion of the records of said board the names of all teachers who shall have procured certificates and the branches proposed to be taught.

Of paying tea-  
chers out of  
school fund.

Sec. 4. Be it further enacted, That said board of Mobile school commissioners shall consist of twelve members, one-fourth of which shall be from the country portion of the county, and shall reside at least seven miles from the city of Mobile; that on the first Monday in August, 1852, there shall be eight of said board elected by the qualified electors of said county, two of whom shall reside more than seven

Regulation of  
board as to No.  
ac.

miles from the city, which said eight so elected, or a majority of them, after having given twenty days' public notice in one of the city papers previously, shall meet together and shall elect by nomination and ballot four members from the present board of school commissioners, one of whom shall be from the country portion of said county, who with said eight so elected by the qualified electors shall comprise said board; and they shall be divided into three classes, as follows: The four so selected out of the present or old board shall be class number one; the other eight shall be formed into two tickets having one country member on each, and they shall be drawn for and the first drawn shall be number two, and the other shall be number three; in August, 1853, there shall be four commissioners elected by the qualified electors in said county in the place of those comprising number one; in 1855, there shall be selected four commissioners in the place of those comprising number two, and so on, every second year four of said board shall be elected by the qualified electors of said county according to their said classification in numerical order.

Sec. 5. Be it further enacted, That said board may, if they think proper, appoint trustees, to supervise and regulate the internal affairs of any schools under their patronage which have no trustees: Provided, They shall not have power to interfere with the trustees or internal regulations of any school or schools now existing in said county.

Board may appoint trustees.

Sec. 6. And be it further enacted, That if said Barton academy shall at any time be sold, it shall be upon such terms as the board of school commissioners shall think most conducive to the school interests of said county; and as the purchase money shall be realised, it shall be funded so that the interest shall be annually drawn and appropriated to the educational purposes of said county.

Of sale of Barton academy.

Approved, February 9, 1852.

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[No. 379.]

AN ACT

To provide for the compensation of constables and jurors in justices' courts in Butler and other counties.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter, in all cases in which a jury may be necessary and summoned before any justice of the peace of Butler, Russell, Franklin, Benton, Choctaw and Washington

Compensation.

counties for the trial of any cause, said jury shall be entitled to receive for their attendance fifty cents per day each and the constable for summoning said jury one dollar and fifty cents, to be taxed in the bill of cost in the case out of the party cast in the suit.

Sec. 2. And be it further enacted, That all laws or parts of laws contrary to this act be and the same are hereby repealed.

Repeals.

Approved, February 7, 1852.

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[No. 380.]

AN ACT

To require the circuit clerk, the treasurer and sheriff to receive county claims in payment of fines and forfeitures in the county of Walker.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be the duty of the clerk of the circuit court, the county treasurer and the sheriff of Walker county to receive in payment of all fines and forfeitures all legal county claims which may be properly chargeable to the county treasury of said county.

Duty of clerk.

Sec. 2. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 7, 1852.

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[No. 381.]

AN ACT

Relating to the county treasurer of Walker county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the county treasurer of the county of Walker shall not reside over four miles from the court house of said county; and any treasurer failing to comply with the provisions of this act, his office shall be considered vacated and shall be filled as other cases of vacancy.

Shall reside within 4 miles of court house.

Sec. 2. Be it further enacted, That so much of an act requiring the county treasurer to report to the grand jury as applies to the county of Walker, approved February the 9th, 1850, be and the same is hereby repealed.

Repeals.



Sec. 3. And be it further enacted, That all laws and parts of laws contravening the provisions of this act are hereby repealed. Repeals.

Approved, February 7, 1852.

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[No. 382.]

AN ACT

To authorise the sheriff of Baldwin county to execute constable duty in civil cases.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be lawful for the sheriff of Baldwin county to perform all the duties now devolving upon constables in civil cases in said county, for which he shall receive the same fees now allowed by law to constables in like cases.

Approved, February 7, 1852.

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[No. 383.]

AN ACT

To compensate the county treasurers for the counties of Limestone, Morgan and Chambers for receiving and paying out sixteenth section funds.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the county treasurers for the counties of Limestone, Morgan and Chambers be and they are hereby allowed one and a half per cent. on all sixteenth section funds received and paid out by them; any law, usage or custom to the contrary notwithstanding.

1½ per cent.  
allowed.

Approved, February 4, 1852.

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[No. 384.]

AN ACT

To make permanent the court house in the county of Autauga..

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sheriff of Autauga county shall open and hold an election at the different precincts in said county, for the

purpose of permanently locating the seat of justice for the said county Autauga, in the following manner, to-wit: the said sheriff, shall, thirty days previous to the first Monday in May next, notify the people of said county by public advertisement put up at each precinct in the said county of Autauga, that the aforesaid election will be held as above specified on the first Monday of May next; at which time it is made lawful for all citizens who are entitled to vote for representatives in said county to vote at said election for any place in the said county they may think proper; and upon casting up the votes the two places receiving the greatest number of votes shall be subject to a second election: Provided, however, That if any location should prove in the said election to be holden on the first Monday in May next to be the location preferred by a majority of the votes of said county, then and in that event it shall be the seat of justice of Autauga county.

Election shall be held by sheriff.

Sec. 2. Be it further enacted, That should no place receive a majority of the votes given, it shall be the duty of the sheriff aforesaid, after giving thirty days' notice by advertisement at each precinct in the county, to place in nomination the two places which received the greatest number of votes at the May election, to be voted for on the first Monday in August next; and the place which receives the largest number of votes on the said first Monday in August next shall be the permanent seat of justice for said county of Autauga; any law, usage or custom to the contrary notwithstanding.

No place having a majority, second election shall be held.

Sec. 3. Be it further enacted, That it shall be the duty of the sheriff aforesaid to cause all the votes given in at the several precincts to be brought together at Kingston, within the three first days following each election, to be compared by the said sheriff, the judge of probate and the commissioners of roads and revenue; and on ascertaining the result, it shall be the duty of said sheriff to make known by public proclamation the number of votes, the names of the places voted for and the number of votes for each.

Duty of sheriff in comparing votes.

Sec. 4. Be it further enacted, That should some other place than Kingston receive a majority of the votes given, it shall be the duty of the commissioners of roads and revenue of Autauga county to proceed to purchase a site for the location of a court house at the place thus selected and secure a deed executed by the commissioners for the use of the county; they shall also make early arrangements for the erection of a suitable court house and jail, and at their discretion may levy a tax for that purpose.

Other place than Kingston elected, duty of comm'rs.

Sec. 5. Be it further enacted, That when the court house is completed, the commissioners shall give notice thereof by publication in a newspaper or otherwise, for three weeks; the judge of probate, clerk of the circuit court and sheriff must, as soon as suitable rooms are prepared, carefully remove to the new court house all the books, papers and things belonging and appertaining to their respective offices.

Court house completed, officers to remove to it.

Sec. 6. Be it further enacted, That the commissioners of roads and revenue for each day they are employed under the requirements of this act, shall each be entitled to receive two dollars perday, to be paid by the county.

Fay of comm'rs.

Sec. 7. Be it further enacted, That the said sheriff be entitled to such compensation for holding said election as the commissioners' court of said county may allow, to be paid out of the county treasury of said county; and if the said sheriff shall fail or refuse to discharge the duties assigned him by this act, he shall forfeit and pay the sum of eight hundred dollars, to be recovered before any court having jurisdiction thereof; one half to the person sueing for the same and the other half to the use of the county.

Fay of sheriff.

Sec. 8. Be it further enacted, That the said sheriff shall cause to be kept a separate box at each precinct for the purpose of receiving the votes that are given in for said county site; and said sheriff shall hold said election in the same manner that elections are held for members of the general assembly.

Elections, how conducted.

Sec. 9. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 5, 1852.

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[No. 385.]

AN ACT

To authorise the judge of probate court of Mobile county to copy such books of record now in the probate court or record room of said county as are in a dilapidated state, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the judge of probate court of Mobile county to re-copy or cause to be re-copied all such record books in the probate court or record room of said county as are in a dilapidated state, and also to record the old dilapidated papers in the probate court.

Duty of probate judge.



Sec. 2. Be it further enacted, That the judge of the probate court shall receive such compensation for the services required of him by this act as the commissioners of revenue may consider just, to be paid out of the county treasury by order of the said board of commissioners: Provided, No payment shall be made until the labor has been performed.

Compensation.

Sec. 3. And be it further enacted, That certified copies from said new records shall receive the same force and effect as evidence in all cases as copies from the original books: Provided, That it shall be the duty of the board of revenue commissioners to elect a competent individual to re-copy the books of record.

Certified copies.

Proviso.

Approved, January 20, 1852.

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[No. 386.]

AN ACT

To authorise the re-building a court house in the county of Montgomery, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of probate and commissioners of roads and revenue in and for the county of Montgomery be and they are hereby authorised to levy a special tax on the persons and property of the citizens of said county liable to taxation and all other subjects of taxation as provided for by law as shall be sufficient for the purpose of building a court house for the county of Montgomery on a site to be selected by the said judge and commissioners within the corporate limits of the city of Montgomery; and that they have power to purchase a lot of ground for that purpose.

Comm'rs' court may levy special tax.

Object.

Sec. 2. Be it further enacted, That the said judge and commissioners shall have power to contract for the building of said court house by letting out the same to the lowest bidder or bidders, on such plans or specifications as may be agreed upon, requiring such contractor or contractors to enter into bond and security for the faithful compliance with such contract, payable to the judge of probate and commissioners as aforesaid and their successors in office.

Contract for building a court house.

Sec. 3. And be it further enacted, That such special levy of taxes as aforesaid for the purposes above named may be levied and collected during the years 1852 and 1853.

Tax, when levied.

Approved, January 2, 1852.

[No. 387.]

## AN ACT

In relation to the burnt records of Coffee county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be the duty of the judge of probate in Coffee county to procure suitable and separate books and record therein all deeds and conveyances of lands, tenements and hereditaments, marriage licenses and certificates of marriage and all other papers required by the laws of this state to be recorded, which may be deposited in his office and of which the former record was destroyed by fire in the year 1851; and upon which said record said judge of probate shall also enter all such endorsements or certificates as may have been attached to said papers by the former recording officer in said county; and said records when so made shall have the same force and effect as the original records which were destroyed as aforesaid.

Duty of probate judge.

Sec. 2. And be it further enacted, That for the services herein directed, the probate judge of said county shall receive such compensation as the court of commissioners of revenue and roads of said county of Coffee may allow, to be paid out of the treasury of said county.

Compensation.

Approved, February 5, 1852.

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[No. 388.]

## AN ACT

To change the mode of receiving and disbursing the revenue of Mobile county, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the 1st day of April next, the offices of treasurer of Mobile county, treasurer of the Mobile school commissioners and treasurer of road commissioners for said county shall cease and determine; and that they and each of them, or such person or persons as shall have charge of said funds, shall make out an account current and settle with their respective boards, and the balance of money on hand, if any, they shall pay over to the bank of Mobile to the credit of said boards respectively, and the receipt from said bank shall be a sufficient voucher upon said settlement with said boards; but if said treasurers, or either of them, or any other person or persons having or holding any of said funds, shall fail or refuse to pay the same over for

Certain offices to determine on 1st April.

Shall settle.

ten days after the first day of April, 1852, such person or persons may be proceeded against as provided for by law to compel county treasurers to pay claims against the treasury.

Sec. 2. Be it further enacted, That all the moneys heretofore required by law to be paid to either of these treasurers or boards shall, on and after the first day of April next, be paid into the bank of Mobile to the credit of the proper board.

Money shall be paid into bank.

Sec. 3. Be it further enacted, That the officers of said bank shall open accounts respectively with said different boards, and shall from time to time receive and disburse the same according to law; the disbursements to be made upon the written order of the clerks of said boards; and said banks shall furnish said boards respectively with a full and detailed account current of the receipts and disbursements on the first Monday of July in each and every year, for the year then last past: Provided, however, That all orders proper for the payment of sums over twenty dollars shall be countersigned by the president of the board whence it emanated or by the auditor of public accounts, for which services the bank shall receive no compensation.

Bank shall open an account.

Sec. 4. Be it further enacted, That after said boards have inspected the annual account current furnished by the bank and found correct, they shall require their clerks respectively to receive the same and the vouchers to be burned, unless they may think it necessary to preserve them or any of them for after references or adjudication; and the clerks of said different boards shall allow any and all persons the privilege of inspecting such reports from time to time as they may desire.

Annual accounts to be examined and vouchers burnt.

Sec. 5. Be it further enacted, That the revenue commissioners of Mobile county shall, at their first term or sitting after the passage of this act, elect a competent accountant, a man every way qualified to act as auditor of public accounts; and said commissioners, at their first regular term after election every four years, shall elect said auditor of public accounts and shall fill any vacancy which may occur in said office from time to time.

Court shall elect an auditor of accounts.

Sec. 6. Be it further enacted, That said auditor shall hold his office until his successor is qualified, and before entering upon which he shall take and subscribe an oath faithfully, diligently and impartially to discharge the duties of his office to the best of his skill and ability; said oath shall be deposited with the judge of probate of said county; it shall be the duty of said auditor to inspect the assessment

His term of office.



of taxes of every kind and description in said city and county. to examine the tax collectors' books, to see that all the taxes are properly paid over by the collectors; to ascertain the amount of revenue coming from any and every source in said county, either for state, county or special purposes, and to demand its payment according to law; and generally to superintend the financial interests of the revenue of Mobile in every department, not so, however, as to conflict with the duties of other officers, whose duties are defined by law, and not in conflict with this act; and he shall report to said boards respectively, as often as the may require, the condition of the funds of their respective boards; and he is hereby required to communicate to the presidents of said boards and the state comptroller any facts at any and all times touching the financial interests thereof which he may think necessary; and he shall do and perform any and all other duties touching the financial interest of said city and county as may be directed by said boards from time to time comporting with his duties as auditor under this law; but in no case is he to have care or possession of any moneys arising from said revenue.

His duties.

Sec. 7. Be it further enacted, That said auditor shall, once in each year, on the first Monday in August thereof, make out and publish in some journal of the city of Mobile a report stating what amount, if any, which has not been collected or paid over of said revenue which should have been, and from what source, to what fund it belongs and why such funds have not been collected or paid over; and the revenue commissioners shall pay out of the county treasury the charge for such publication.

Shall make report.

Sec. 8. Be it further enacted, That the revenue commissioners of said county shall pay said auditor such salary as they may find necessary, not to exceed one thousand dollars per annum, for such time as he may serve, to be paid quarterly, computing from the first of January in each year.

Salary.

Sec. 9. Be it further enacted, That the commissions heretofore allowed to the treasurers aforesaid shall be annually computed and placed to the credit of the Mobile school commissioners, to aid in the education purposes of said city and county, reserving enough thereof, however, in the county treasury to pay said auditor of public accounts his salary.

Funds appropriated to school purposes.

Sec. 10. Be it further enacted, That the solicitor of the Mobile district be and he is hereby required to institute proceedings against any person or persons having any of the

Solicitor of 6th circuit shall institute proceedings.

revenue belonging to either of said boards which he or they may fail to pay over as provided by law, or to institute any other proceedings in the collection of the revenue which by law the county treasurer was authorised to institute previous to the passage of this act; and the style of process in such cases shall be the president of the revenue commissioners to the use of Mobile county, whether the sum sued for be for the direct use of county purposes or a special fund.

Sec. 11. Be it further enacted, That the tax collectors of Mobile county shall not receive a commission for the collection of any special tax above the minimum commissions allowed for collecting county and state taxes.

Commissions of  
tax collector.

Sec. 12. Be it further enacted, That if there shall remain at any time on hand any part of a special tax in Mobile county over and above the objects for which it was created, or if the road tax as collected any year or from year to year, in Mobile shall exceed the amount authorised to be paid out for that purpose, such excess shall be paid into and become a part of the county revenue.

Excess of tax,  
how disposed of.

Sec. 13. Be it further enacted, That this act shall be so constructed as to require the bank to pay the claims which may be legally presented out of the proper fund, however small the sum may be.

Construction.

Sec. 14. And be it further enacted, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed: Provided, however, That the duties of the auditor shall not supercede any duties heretofore required of the revenue or other commissioners with regard to the investigation of the assessors' books and revenue generally.

Repeals.

Proviso.

Approved, February 9, 1852.

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[No. 339.]

AN ACT

To amend the road laws of Mobile county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the twenty-first section of the general road law of the state (Clay's Digest, page 512,) shall be and the same is hereby extended to and made a part of the road law of Mobile county, as well as any other section of said general road law as imposes a penalty on overseers of roads for neglect of duty.

Law extended.

Approved, February 9, 1852.

[No. 390.]

## AN ACT

To authorise the commissioners of revenue of the county of Mobile to borrow money for the completion of the court house, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the board of commissioners of roads and revenue of the county of Mobile be and they are hereby authorised to contract for a loan of seventy-five thousand dollars, to be appropriated to the completion of the court house in the city of Mobile which is now in the course of erection for the use of the county.

May contract  
for a loan of  
\$75,000.

Sec. 2. Be it further enacted, That the said board be and is hereby authorised to lay a special tax in said county which shall be applicable solely to the payment of the debt herein authorised to be contracted: Provided, That the said tax shall not exceed the sum of fifty per cent. on the state tax per annum.

May lay a spe-  
cial tax.

Sec. 3. Be it further enacted, That the said commissioners may issue the securities of the county for the reimbursement of the money and interest obtained from said loan and the pledge of the taxes which may be appropriated under this act.

May issue secu-  
rities.

Sec. 4. Be it further enacted, That the superintendence of the building of the court house aforesaid and the disbursement of the money applicable to the same is hereby placed under the exclusive control of the said court; and it shall be the duty of said court to deposite to the credit of Mobile county the money hereby authorised to be contracted for with either of the banks in the city of Mobile, to be drawn therefrom under appropriations to be made by said board and on checks to be signed by the president and one member of the board.

Powers of court.

Sec. 5. Be it further enacted, That all the moneys to be collected by the tax collector under this act shall be paid into either of the banks of the city of Mobile to the separate credit of the court house fund, and furnish the president of the board with a certificate of deposit for each sum by him deposited; and shall be paid therefrom under an appropriation of the board for the payment of the securities of the county issued under this act and upon checks which shall be signed by the president of the said court and one member of the board; and such check shall express the debt to be paid and the date of the order of the court authorising it.

Money collect-  
ed to be paid  
into bank.



Sec. 6. Be it further enacted, That upon the failure of the tax collector to perform any of the duties specified in this act, the president of the court aforesaid may move in the name of the court for a judgment in the same manner and under the same regulations as county treasurers are allowed to do under the laws now in force.

Penalty on tax collector.

Sec. 7. Be it further enacted, That the said board of revenue be and the same is hereby authorised to appoint a clerk for this court and to make him an allowance for his services not exceeding one hundred dollars per annum.

Board may appoint a clerk.

Sec. 8. Be it further enacted, That such sum or sums of money as may remain on hand when the debt which may be contracted by authority of this act shall have been paid, shall be placed to the credit of the county treasurer of Mobile county.

Surplus money.

Sec. 9. And be it further enacted, That the judge of the probate court of Mobile county is hereby relieved from the performance of any duties heretofore required of him in connection with the board of revenue commissioners of said county.

Judge of probate relieved of certain duties.

Approved, January 28, 1852.

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[No. 391.]

AN ACT

To amend "an act establishing courts of probate, and for other purposes," approved February 11, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the judge of probate of the county of Pickens be and he is hereby required to keep his office open for the transaction of business on Mondays, Tuesdays, Wednesdays and Thursdays of each week, instead of Mondays, Tuesdays and Saturdays, as now required by law, from nine o'clock in the morning until four in the afternoon, with the exception of one hour each day at noon.

As to judge of probate of Pickens county.

Approved, February 9, 1852.

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[No. 392.]

AN ACT

To repeal a certain act therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

convened, That an act entitled "an act to more particularly define the duties of commissioners' court in the county of Chambers," approved the 15th day of January, 1848, be and the same is hereby repealed.

Repeals.

Approved, February 9, 1852.

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[No. 393.]

AN ACT

To repeal an act therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act passed at the last session of the legislature and approved the 31st of January, 1850, entitled "an act to prevent the commissioners' court for the county of Lauderdale from levying a higher tax than fifty per cent. on the state tax," be and the same is hereby repealed.

Repeals.

Approved, January 30, 1852.

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[No. 394.]

AN ACT

To establish a certain road therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of Montgomery county be and they are hereby authorised to appoint three commissioners to review, mark and lay out a road (if upon such examination they think the public interest requires it) from section twenty-four, in township seventeen, range nineteen, to section eighteen, in township eighteen and range twenty, and make their return to said court, who shall make such orders as shall be necessary to open the same.

Shall be reviewed.

Sec. 2. And be it further enacted, That in opening and keeping in repair the said road, the same shall be governed in all respects by the laws now in force regulating the same: Provided, The commissioners' court may at any time abolish said road, when in their opinion the interest of the public requires it.

Now opened.

Approved, February 9, 1852.

[No. 395.]

## AN ACT

To give additional fees to the constable in beat twelve, Chambers county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That hereafter the constable in beat number twelve, in Chambers county, Alabama, shall in all cases be entitled to five per cent. for collecting money on executions, unless such commissions will not amount to fifty cents; in such cases he shall be entitled to fifty cents for making money on each execution.

For collecting money on executions.

Approved, February 10, 1852.

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[No. 396.]

## AN ACT

To make the county treasurer of Madison county and others elective by the people.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the county treasurer of Madison county shall, after the expiration of the term of service of the present incumbent, be elected by the vote of the qualified voters of said county at the same time and in like manner as sheriffs and clerks of said county are elected: Provided, That if a vacancy shall occur in said office of treasurer, the commissioners' court shall fill the same, their appointee holding under such appointment until the next succeeding general election: And provided, also, That the term of said office shall be three years as heretofore.

Elected by the people.

Sec. 2. And be it further enacted, That the provisions of this act be extended to and made applicable in all particulars to the counties of DeKalb, Pike, Fayette, Autauga, Pickens, Blount, Benton, Coffee, Butler, Marion, Chambers and Randolph.

Extended to other counties.

Approved, January 15, 1852.

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[No. 397.]

## AN ACT

To suspend in part "an act to make the county treasurer of Madison county and others elective by the people," approved January 15, 1852.

Sec. 1. Be it enacted by the Senate and House of Represen-



tatives of the State of Alabama in General Assembly convened, That so much of "an act to make the county treasurer of Madison county and others elective by the people," approved January 15, 1852, as applies to the counties of Butler and Randolph be and the same is hereby suspended until the first of February, 1854.

Suspended as to Butler and Randolph.

Approved, February 9, 1852.

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[No. 398.]

# AN ACT

To authorise Wilson Nesbitt to erect a toll bridge across the Little Cahaba River.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Wilson Nesbitt and he is hereby authorised to erect a toll bridge over the Little Cahaba River on section sixteen, township twenty-four, and range eleven, east: Provided, That the bridge shall be so constructed as not to obstruct the free navigation by any flat boat or other water craft which usually navigates said river at any ordinary high stage of water.

May build a bridge.

Sec. 2. Be it further enacted, That it shall be the duty of said Wilson Nesbitt, his heirs and assigns, when the said bridge shall have been completed, to keep the same in good order and repair; and the said Wilson Nesbitt, his heirs and assigns, are hereby rendered liable to make good all damages that any person or persons may sustain, either in person or property, from his or their failure to keep in repair said bridge.

Shall keep it in repair.

Sec. 3. Be it further enacted, That when said Wilson Nesbitt or his legal representatives shall have built a good and substantial bridge as aforesaid, he shall be entitled to demand and receive from all persons crossing said bridge such toll as the commissioners' court of Bibb county shall authorise.

May charge toll.

Sec. 4. And be it further enacted, That the privilege hereby granted to said Wilson Nesbitt shall continue for ten years.

10 years.

Approved, February 10, 1852.

[No. 399.]

## AN ACT

To authorise Green W. Taylor to erect gates on a certain public road therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, Green W. Taylor, his heirs and assigns, are hereby authorised to erect gates across the public road now leading through sections fourteen and fifteen, in township seventeen, range twenty, Montgomery county, Alabama, at any points he or they may select on said section; the gates to be so constructed as to be easy of passage and free at all times from toll; any law, usage or custom to the contrary notwithstanding.

may erect  
gates.

Approved, February 10, 1852.

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[No. 400.]

## AN ACT

To authorise Joseph Chason and his associates to build a toll bridge across Curtybough Creek, in Washington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Joseph Chason and his associates be and they are hereby authorised to build a bridge on Curtybough Creek, on the road leading from Bladen Springs to St. Stephens, in the county of Washington; and the said Joseph Chason shall be and is hereby authorised to charge the following rates of toll for said bridge, to-wit: For a wagon, with four or more horses, fifty cents; for a wagon or cart, with one or more horses, twenty cents; for pleasure carriages, twenty-five cents; for man and horse, ten cents; for single horse, five cents; for every head of cattle, sheep or hogs, two cents per head.

may build  
bridge.

rates of toll.

Sec. 2. Be it further enacted, That it shall be the duty of the said Joseph Chason and his associates and their heirs and assigns, when the said bridge shall have been completed, to keep the same in perfect order and repair; and the said Joseph Chason and his associates and their heirs and assigns are hereby rendered liable to make good all damages that any person may sustain either in person or property from his or their failure to keep said bridge in repair.

Shall be kept  
in repair.

Sec. 3. And be it further enacted, That the privileges hereby granted shall continue for the term of twelve years

Term.

and no longer: Provided, however, That the court of commissioners of roads and revenue of Washington county may have the power of extending the privileges of this act, not to exceed the term of twelve years.

Approved, February 10, 1852.

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[No. 401.]

# AN ACT

To establish a turnpike road in the county of St. Clair.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Marcus D. Vance and Howell R. Buchanon be and they are hereby authorised to open and turnpike a road commencing at or near Chandler Auberry's, in St. Clair county, thence the nearest and the best way to Richard B. Wharton's, in said county, a distance of eight miles; that said road shall be opened twenty feet wide, twelve feet of which in a straight general direction shall be cleared of stumps and trees cut down within four inches of the ground and all grubs and roots removed, the sloping ground and banks of creeks and branches to be so cut down and leveled as to be safe and easy for the passage of horsemen, carriages, &c.; all marshes, swamps and creeks to be causewayed or bridged, with ditches on each side of causeways when necessary.

May open road.

Route.

Sec. 2. Be it further enacted, That Chandler Auberry, Richard B. Wharton, William Gains, sr., John T. Pope and John N. Shahan, all of said county, be and are hereby appointed commissioners to view and examine the condition of said road three times in each year, if they should deem it necessary, and report the condition of the road to the commissioners' court thereof; and so soon as said Vance and Buchanon shall have put said road in such repair as they shall think complies with the requisitions of this act, they are hereby authorised to call on said commissioners, whose duty it shall be to view the situation of said road and report the same to their commissioners' court; and if said commissioners should recommend the erection of a gate, the commissioners' court shall cause an order to be made authorising the same; and the clerk of said court shall on demand deliver to said Vance and Buchanon a copy of said order, which shall be authority for them to erect a gate of said road and receive the following toll for pas-

Comm'rs to examine road.



sing the same, to-wit: For each wagon and team loaded, fifty cents; for each empty wagon, twenty-five cents; for each pleasure four wheeled carriage, twenty cents; for each two wheeled pleasure carriage, fifteen cents; for each acryall or dearborn, thirty-five cents; for a man and horse, ten cents; for every led or loose horse, three cents; for each head of cattle, three cents; for each head of hogs, sheep or goats, one-half cent.

Rates of toll.

Sec. 3. Be it further enacted, That whenever the commissioners' court of said county shall be informed by any one of the commissioners, in direct terms, or by any other person, on oath subscribed by the party giving such information, that said road or any part thereof is out of repair, such judge shall forthwith notify said Vance and Buchanan or their agent of that fact, and require of them without delay to repair the same; and on said company failing so to do within a reasonable time, such commissioners' court shall order a review of said road by the commissioners; and should the commissioners find such road actually out of repair, they shall open the gate and report accordingly to the commissioners' court, who shall receive three dollars per day while engaged in such service, to be paid by the said Vance and Buchanan, on the production of the order of the said commissioners' court to be made to that effect; and should the said Vance and Buchanan, by themselves or agent, receive any toll before the road shall have been repaired and received by the commissioners' court as directed by the third section of this act, they shall forfeit and pay five dollars for every such offence to any person who will sue for the same: Provided, That on complaint made by any person other than one of said commissioners, the report of said commissioners shall be that said road was in repair; the said commissioners' court shall on the return of said report give judgment in favor of said commissioners against such informant for the amount of the commissioners' fees for making such review and issue a proper process for the collection of the same.

Road out of repair.

Sec. 4. Be it further enacted, That said road shall be put in repair as required by this act within three years from the first day of September, eighteen hundred and fifty-two, otherwise all the rights and privileges granted by this act shall be forfeited; and should said Vance and Buchanan, for six months at any one time, refuse to repair said road after the gate shall have been opened by said commissioners under the direction of the court in pursuance of the provisions of this act, all the rights and privileges herein to them granted shall be forfeited.

To be completed.

Sec. 5. And be it further enacted, That the said Marcus D. Vance and Howell R. Buchanan shall be entitled to all the privileges and immunities hereby granted for and during the term of sixteen years from and after the passage of this act.

Term of charter.

Approved, February 10, 1852.

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[No. 402.]

AN ACT

Authorising certain persons herein named to construct dams across Wills' creek.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the heirs of William Wharton, deceased, be and the same are hereby authorised to construct a mill dam across Wills' creek.

W. Wharton..

Sec. 2. And be it further enacted, That Lewis L. Rhea is hereby authorised to construct a dam across said creek: Provided, That said dams do not create a public nuisance.

L. L. Rhea.

Approved, February 10, 1852.

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[No. 403.]

AN ACT

To authorise William R. King to erect a mill dam across Lost creek, in the county of Walker.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William R. King, of Walker county, be and he is hereby authorised to erect a mill dam across Lost creek, in said county, on his own land in range nine, township fourteen, which mill dam shall not exceed eleven feet in height; any law to the contrary notwithstanding.

Approved, February 7, 1852.

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[No. 404.]

AN ACT

To amend and extend an act approved the 27th of January, 1845, "authorising Edmund Wiggins to erect a toll bridge over Choctawhatchie river, in Coffee county, at Geneva."

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That all of the provisions and restrictions of the said act, approved, the 27th of January, 1845, are hereby extended to John Holley, the assignee of the said Edmund Higgins; and the rights hereby vested shall expire after the lapse of twenty years from the expiration of the present charter, (approved the 27th of January, 1845:) Provided, That this act or the act to which this is an amendment shall not be so construed as to authorise the said John Holley to obstruct the passage of any boat or water craft that can now or may hereafter navigate said river.

Approved, February 5, 1852.

Rights, &c.,  
transferred to  
John Holley.

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[No. 405.]

AN ACT

To repeal an act approved February 7, 1850.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That an act entitled "an act to declare the north prong of the Frederick branch of the Warrior a public highway, and for other purposes," be and the same is hereby repealed.

Approved, February 9, 1852.

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[No. 406.]

AN ACT

To authorise Elias Davis to build a mill on the Black Warrior river, in the county of Walker.

Sec. 1. Be it enacted, By the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Elias Davis, of Walker county, be and he is hereby authorised, upon obtaining an order from the proper court upon a writ of ad quod damnum as now provided by law, to erect a mill on the west bank of the Black Warrior river at Barton's shoal, in said county: Provided, That the dam attached thereto shall not exceed five feet high, commencing at the west bank of said river, extending two-thirds across said river, and gradually descending to the height of one foot at the other end: And provided further, That said dam shall not prevent the navigation of said river.

May erect mill,  
&c.

Sec. 2. Be it further enacted, That the said Elias Davis shall be subject to all laws now in force against public mills in this state.

Liability.



Sec. 3. And be it further enacted, That all laws contravening the provisions of this act be and the same are hereby repealed.

Repeals.

Approved, February 5, 1852.

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[No. 407.]

AN ACT

To authorise Squire Chambers and his associates to build a toll bridge across Sautie creek, in the county of Jackson.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Squire Chambers, of the county of Jackson, and such other persons as may hereafter associate with him, shall be authorised to build a toll bridge over Sautie creek, in said county, at the point of the ridge above Smart's; and shall be authorised to charge and receive for all wagons and other wheel carriages, passengers on foot and horse back such rates of toll as shall be allowed by the commissioners' court of revenue and roads of Jackson county: Provided, That the said Squire Chambers and his associates shall first obtain an order from the judge of probate and commissioners of revenue and roads of Jackson county authorising the erection of the contemplated bridge.

May build a bridge.

Approved, February 10, 1852.

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[No. 408.]

AN ACT

To authorise the building of a mill on the Tennessee river.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, it shall be lawful for Daniel Gilchrist, his heirs or assigns, to erect and build a grist and saw mill, wool or cotton factory, to be situated on the northern bank of an island in the Tennessee river, in the county of Franklin in this state; said island lying in section three, township three, range ten, west from Huntsville, and known as the "Gilchrist Island,"

D. Gilchrist may build a mill.

Sec. 2. And be it further enacted, That said Gilchrist, his heirs or assigns, may as they are hereby authorised to build such a dam as may be necessary to supply said mill or mills so to be build with sufficient water: Provided, Said dam shall be so constructed as not to prevent the navigation of said river.

Dam.

Approved, February 9, 1852.

[No. 409.]

## AN ACT

To change the West Point and Tallassee road.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the road leading from West Point to Tallassee be so changes as to run on a portion of the east line of section twenty-four, of township nineteen, of range twenty-three, in the county Tallapoosa, continuing said line to or near the south-east corner of said section, thence a due and proper direction to the original road on section twenty-five of township and range above.

Approved, February 10, 1852.

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[No. 410.]

## AN ACT

To authorise Edwin A. Glover to change a road therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Edwin A. Glover be and he is hereby authorised to change the state road leading from Greensborough to Mobile, by Linden, in the county of Marengo, beginning where the Demopolis and Linden road intersects the state road, and running from thence east of the dwelling house of the said Glover and intersecting the old road at a point where the Dayton road leaves the same.

Approved, December 18, 1851.

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[No. 411.]

## AN ACT

For the relief of John Davis.

Whereas, John Davis, now of Autauga county, was sentenced to the penitentiary and on the application of respectable citizens of this state was released therefrom by the governor; and whereas, his fellow citizens of Autauga have very numerously petitioned, that in view of the virtues and christian character of the said Davis, he may be reinstated in the enjoyment of the rights of citizenship; therefore---

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John Davis, of Autauga county, be and he is hereby restored to all the rights and privileges of citizenship.

Restored.

Approved, February 7, 1852.

[No. 412.]

## AN ACT

For the relief of Mary C. Waters.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be lawful for Mary C. Waters, of the county of Lowndes, wife of Jonathan P. Waters, and by him abandoned, to institute suit in any chancery court of this state for divorce from the said Jonathan P. Waters, her husband, in less than three years from the time of her abandonment by him; and if, in the opinion of the court, said Mary C. hath just and sufficient cause for desiring to be divorced from her husband, the said Jonathan P., it shall be lawful for the chancellor of said court to decree to said Mary C. a divorce, dissolving the bonds of matrimony existing between her and said Jonathan P. Waters; any law to the contrary notwithstanding.

May sue for divorce in less than 3 years.

Approved, February 9, 1852.

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[No. 413.]

## AN ACT

For the relief of certain persons therein named, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That any right to the estate of Tom, a free man of color, who died in the county of Dallas, which has now or may hereafter accrue to the State of Alabama by way of escheat, be and the same is hereby relinquished.

Right relinquished.

Sec. 2. Be it further enacted, That the negro slaves belonging to the estate of said Tom, to-wit: Charity, his widow, and Malinda, Sarah, Organ, Miles and Rebecca, his children, with the increase of the females, be and each and every of them hereby is manumitted and forever set free from the bondage of slavery: Provided, They and every of them shall within two years from the passage of this act remove themselves or be removed beyond the limits of this state: And provided further, That Garland F. Gardner execute bond with good security, in the sum of two thousand dollars, payable to the judge of the probate court of the county of Dallas and his successors in office, conditioned to remove said persons of color beyond the limits of this state within the time prescribed by this act.

Emancipated.

Proviso.

Proviso.

Sec. 3. And be it further enacted, That when said Gar-



land F. Gardner shall have executed the bond required by the second section of this act, then the said Charity, Malinda, Sarah, Organ, Miles and Rebecca shall be qualified in law to take and inherit the estate real and personal of the said Tom in such portions as it would descend to them by the statute of distributions in this state.

May inherit.

Approved, January 12, 1852.

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[No. 414.]

AN ACT

For the relief of William Duboise and others.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William Duboise, Barney Duboise and Samuel Duboise be and they are hereby declared citizens under the law, capable of exercising all the rights, immunities and privileges as citizens of the State of Alabama as fully as they would be if they were not of Indian descent; any law, usage or custom to the contrary notwithstanding.

Declared citizens.

Approved, February 5, 1852.

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[No. 415.]

AN ACT

For the relief of Elijah Osborn and others to practice medicine.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Elijah Osborn, of the county of Montgomery, be and he is hereby authorised to practice medicine in this state and is made capable in law to sue for and recover a reasonable compensation for any professional services that may be rendered by him.

May practice medicine.

Sec. 2. Be it further enacted, That all persons entitled to practice medicine under the provisions of this act be and are hereby confined in their practice to the counties of their present residence.

Restriction.

Sec. 3. Be it further enacted, That the provisions of this act extend to J. Millford Randall, of the county of Fayette.

Extended.

Sec. 4. Be it further enacted, That the provisions and benefits of this act be and the same are hereby extended to Stephen A. Kersey, of the county of Pike.

Extended.

Sec. 5. Be it further enacted, That William H. Allen be and he is hereby authorised to practice medicine in the

Extended.

county of Jackson and charge and collect by law reasonable compensation for his services.

Sec. 6. And be it further enacted, That the provisions of this act be extended to John E. Callahan, of Tallapoosa county.

Extended.

Approved, February 10, 1852.

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[No. 416.]

AN ACT

For the relief of John Silsby.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee of the state bank and branches shall have full power to pay to John Silsby, of the city of Mobile, whatever amount he may believe said Silsby entitled to in equity and justice, on account of the left hand end of a certain five hundred dollar note of the branch of the bank of the State of Alabama at Mobile held by said Silsby, which amount shall not exceed two hundred and fifty dollars; and before payment of any amount that may be allowed under the authority of this act, said Silsby shall execute such bond as may be required by the commissioner and trustee for the protection of the bank.

Comm'r may settle.

Approved, February 7, 1852.

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[No. 417.]

AN ACT.

To provide for the extension of the time of payment of certain notes due the State of Alabama by the Benjamin Hudson, of Franklin county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee appointed to settle the affairs of the state bank and branches be and he is hereby authorised to extend the time of payment of two notes against Benjamin Hudson, late of the county of Franklin, deceased, each for the sum of three hundred and thirty-seven dollars and fifty cents, or thereabouts, payable to the branch of the bank of the State of Alabama at Decatur, the first on the 1st of May, 1851, and the other on the 1st of May, 1852, to such time, or times not exceeding five years, as he in his discretion may think proper: Provided,

Debt may be extended.

That such extension shall not be made until the payment of said notes at the time to which their payment is extended, guaranteed and secured to the satisfaction of said commissioner and trustee.

Sec. 2. And be it further enacted, That the administrator and administratrix of the estate of the said Benjamin Hudson, deceased, be authorised and empowered to enter into such arrangement, for securing the payment of said notes extended as aforesaid as they and such commissioner and trustee may agree upon.

Power of adm'r.

Approved, February 4, 1852.

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[No. 418.]

AN ACT

For the relief of Riley F. Perdue.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee of the state bank and branches be and he is hereby authorised to investigate the claims of Riley F. Perdue for relief as security for E. N. and S. Pierce on certain notes due the branch bank of Alabama at Montgomery, to secure the payment of which notes, the said E. N. and S. Pierce executed to the branch bank aforesaid a deed of mortgage on four hundred and forty acres of land and sixty likely negroes; the said commissioner and trustee is requested to enquire if said deed of mortgage was foreclosed, and if so, whether or not the proceeds thereof were applied as directed; and if, after a careful examination into the matter, he believes the claims of the said Riley F. Perdue are founded on the principles of equity and justice, then the said commissioner and trustee is hereby authorised to extend to the said Perdue such relief as in his opinion is justly due: Provided, however, The relief thus granted shall not extend beyond the release of the said Perdue from the payment of the balance due on the notes aforesaid.

Shall investigate claims of R. F. Perdue.

Approved, February 10, 1852.



[No. 419.]

## AN ACT

For the relief of Joseph W. Davis, H. Davis and George Tunstall.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioner and trustee is hereby authorised to settle a certain judgment obtained by the branch of the bank of the State of Alabama at Mobile against Joseph W. Davis, H. Davis and George Tunstall, upon just and equitable principles, re-paying to said defendants any amount which said commissioner and trustee finds to have been over paid and allowing the interest and other charges thereon, if in his opinion justice requires it.

Approved, February 9, 1852.

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[No. 420.]

## AN ACT

To empower Jesse Scruggs, a minor, of the county of Clarke, to purchase real and personal property.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Jesse Scruggs, of the county of Clarke, be and he is hereby empowered to purchase real and personal property by and with the advice and consent of his guardian, and that all such contracts be valid and binding as though he were twenty-one years of age.

Approved, December 16, 1851.

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[No. 421.]

## AN ACT

For the relief of Joseph Henrick.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Joseph Henrick, an alien of Lowndes county, be and he is hereby authorised and enabled to have and hold such of the real estate of his brother, Matthias Henrick, late of said county deceased, as has been devised to him in the last will and testament of the said deceased, as he might or could have done under the laws of this state if he, the said Joseph Henrick, had been a naturalised citizen of the United States.

Approved, December 24, 1851.

[No. 422.]

## AN ACT

For the relief of John Aday, of Lawrence county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John Aday, of Lawrence county, be and he is hereby restored to all his rights as a citizen of said state, of which he was deprived by law in consequence of his conviction of an assault with intent to murder.

Approved, December 20, 1851.

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[No. 423.]

## AN ACT

To authorise James Coon, of Coffee county, to pay taxes in Coffee for certain property owned in Covington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James Coon, of the county of Coffee, be and he is hereby authorised to pay taxes in Coffee for all cattle he may own or which may hereafter be owned by him in the county of Covington, all laws to the contrary notwithstanding: Provided, nevertheless, That if the said James Coon should, after the passage of the above recited act, have a stock-keeper in Covington county for the purpose of penning his stock, then and in that case the said James Coon shall pay taxes in said county for all such cattle so penned.

Approved, December 16, 1851.

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[No. 424.]

## AN ACT

For the relief of Joseph G. Evetts.

Whereas, at the fall term, 1839, of the circuit court of Tuscaloosa county, two judgments were obtained by the president and directors of the bank of the State of Alabama against Joseph G. Evetts, one upon a note purporting to have been executed by H. M. Rogers; the said Joseph G. Evetts and William J. Rogers, on the 18th of April, 1837, due ninety days after date, for two thousand dollars, and discounted on the 15th of April, 1837, for one thousand dollars; the other upon a bill of exchange dated at Mount Hope, Alabama, 4th January, 1837, payable one hundred

Preamble.

and twenty days after date at the branch of the bank of the State of Alabama at Mobile, drawn by Hugh M. Rogers, upon Fontaine, Freeman & Co., of Mobile, for the sum of two thousand dollars and purporting to have been endorsed by the said Joseph G. Evetts, A. L. Montgomery and E. F. Comegys & Co.; and whereas, it has been ascertained to the satisfaction of the general assembly that the signatures of Joseph G. Evetts to said note and bill are not genuine but are forgeries; therefore----

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the said Joseph G. Evetts be and he is hereby discharged from the payment of said judgments: Provided, That nothing herein contained shall operate to discharge any of the other defendants now bound by said judgments or parties on said bill or note.

Discharged  
from payment.

Approved, November 27, 1851.

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[No. 425.]

#### AN ACT

To declare Pleasant P. Coleman a citizen of the county of Perry, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, Pleasant P. Coleman, of the county of Dallas, be and he is hereby declared a liner between the counties of Perry and Dallas, and is hereby required to perform all the duties and be entitled to all the privileges and liable to all the responsibilities of a citizen of the county of Perry.

Declared a li-  
ner.

Sec. 2. And be it further enacted, That the said Pleasant H. Coleman be and he is hereby required to pay to the legal officers of Perry county all taxes which may be legally assessed on his property, both real and personal, so long as he shall under the provisions of this act be a citizen of the said county of Perry, and shall not be required to pay taxes for the same in any other county.

Required to  
pay taxes.

Approved, January 30, 1852.

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[No. 426.]

#### AN ACT

For the relief of Thomas H. Nelms, tax collector for the county of Perry.

Sec. 1. Be it enacted by the Senate and House of Re-



representatives of the State of Alabama in General Assembly convened, That Thomas H. Melms, tax collector for the county of Perry, have till the fifteenth day of March, A. D. 1852, to make his settlement as tax collector with the state: Provided, The securities of said Melms, on his official bond, agree in writing to such extension of time; which said agreement shall be filed in the office of the judge of probate for Perry county, also in the office of comptroller of public accounts.

Approved, January 2, 1852.

To make settlement by 15th of March, 1852.

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[No. 427.]

AN ACT

For the relief of David Campbell.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That David Campbell, tax collector of Montgomery county, be allowed until the first day of April, 1852, to make his settlement with the comptroller of public accounts: Provided, That the securities of the official bond of said Campbell file their consent in writing to the provisions of this act in the proper office: And provided, Said Campbell, at the time of filing such assent, pay over all the funds in his hands belonging to the state to the proper officer.

allowed till 1st April, 1852.

Approved, January 2, 1852.

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[No. 428.]

AN ACT

For the relief of William B. Hargett, of the county of Sumter.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William B. Hargett, of the county of Sumter, be and he is hereby released from the disqualifications imposed by the second section of an act in Clay's Digest, page 169.

Released from disqualifications.

Approved, January 28, 1852.

[No. 429.]

## AN ACT

For the relief of Samuel L. Barnes, of Covington county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Samuel L. Barnes, of the county of Covington, be hereby restored to all the rights and privileges of a citizen of this state, of which he was deprived in consequence of a conviction of arson at the September term, 1846, of the circuit court of said county, the said Barnes having been pardoned by the executive upon the recommendation of the court, jury and solicitor before and by whom he was so convicted.

Restored to  
privileges.

Approved, January 29, 1852.

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[No. 430.]

## AN ACT

For the relief of Alexander Kelly, of Coosa County.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the judge of the probate court and the commissioners of roads and revenue in the county of Coosa are hereby authorised and required to set apart for the support and maintenance of Alexander Kelly, a pauper of said county, a sum of money equal to the amount paid for the support of each pauper in said county at the poor house, which amount shall be paid to Neill Kelly, the father of said Alexander Kelly, out of the county treasury; any law or usage to the contrary notwithstanding.

Money set  
apart.

Approved, January 6, 1852.

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[No. 431.]

## AN ACT

For the relief of William A. Goodwin.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That William A. Goodwin, of the county of Lowndes, be and he is hereby relieved from all the pains, penalties and disqualifications imposed by the laws of this state on account of his having been a bearer of a challenge to fight in single combat.

Disqualifica-  
tion removed.

Approved, January 12, 1852.

[No. 432.]

## AN ACT

For the relief of Margaret Boyle.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That all the right, title or interest of the State of Alabama in or to any of the property of William Boyle, deceased, late of the county of Montgomery, by or through any law of escheats, and which property by the last will and testament of James Boyle, deceased, one of the heirs of said William Boyle, has been devised to Margaret Boyle, widow of said James Boyle, be and the same is hereby vested in the said Margaret Boyle; and that all conveyances made by her or hereafter made shall be as valid as if made by a native citizen of the United States.

Vested with certain rights.

Approved, January 8, 1852.

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[No. 433.]

## AN ACT

For the relief of James Chandler and William Dale.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James Chandler, of the county of Cherokee, be and he is authorised to practice medicine in the county of Cherokee and charge and recover for services by him rendered as a physician and to have and enjoy the rights of licensed physicians; any law to the contrary notwithstanding.

May practice medicine.

Sec. 2. And be it further enacted, That the privileges in this act conferred on James Chandler are hereby conferred on William Dale, of Wilcox county: Provided, That the said Dale shall be confined to the said county of Wilcox in the practice of medicine.

Privileges conferred on Wm. Dale.

Approved, January 29, 1852.

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[No. 434.]

## AN ACT

For the relief of Phebe White.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue for Montgomery county are hereby authorised to appropriate such sum as they may think proper annually for the support and maintenance of Phebe White, of said county, a pauper

Money appropriated to F. White.



without requiring the said Phebe White to be kept at the poor house of said county; any law to the contrary notwithstanding.

Approved, February 3, 1852.

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[No. 435.]

AN ACT

In relation to certain property of Mary A. Guyse, of Perry county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Mary A. Guyse, of Perry county, be and she is hereby entitled to all the provisions of the act entitled "an act to alter and amend an act securing to married women their separate estates, and for other purposes," approved March 1st, 1848, which said act was approved February 13th, 1850; and that she may be herself or her husband, Joel Guyse, as her trustee, receive and receipt for all moneys due to her by and under a decree of the chancery court held in said Perry county in 1846 or at any other time or for any other moneys due on that or any other account or to which she may be entitled, and hold and enjoy the same under the provisions of the said several statutes above mentioned; any law, usage or custom to the contrary notwithstanding.

Entitled to certain privileges.

Approved, February 3, 1852.

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[No. 436.]

AN ACT

For the relief of James Parker, of Sumter county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, James Parker, of the county of Sumter, be and he is hereby declared to be a citizen of township nineteen, range two, west, in said county.

Declared a citizen.

Approved, February 4, 1852.

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[No. 437.]

AN ACT

For the relief of Elsberry Fails.

Sec. 1. Be it enacted by the Senate and House of Represen-

tatives of the State of Alabama in General Assembly convened, That from and after the passage of this act, the political and civil disabilities heretofore incurred by Elsberry Fails, of Butler county, because of his conviction for the crime of grand larceny, be and the same are hereby removed and annulled; and the said Fails is by this act restored to the enjoyment of all the rights of citizenship.

Disability removed.

Approved, January 2, 1852.

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[No. 438.]

AN ACT

For the relief of Henry Traun.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the legal disability of Henry Traun, a naturalised citizen of Dallas county, whereby he is or may be prevented from inheriting the lands lying within the counties of Dallas and Lowndes, whereof his maternal uncle, Christian Frederic Witlich, (commonly called and known as Frederick Witlich,) late of Dallas county, deceased, and who died seized and possessed of said lands, be and the same is hereby removed so that the said Henry Traun (he being the nearest of kin and only blood relation of the said Witlich residing within the United State) may inherit the said lands of the said Witlich, as he might have done, provided his mother, the sister of the said Frederick Witlich, had been a native citizen of the United States.

Disability removed.

Approved, January 29, 1852.

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[No. 439.]

AN ACT

For the relief of John Cunningham and A. W. Majors, of DeKalb county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That John Cunningham, clerk of the circuit court of DeKalb county, be and he is hereby allowed to make up (after the expiration of the term for which he was elected) the record of causes tried during his term.

J. Cunningham may make up record.

Sec. 2. And be it further enacted, That A. W. Majors, late clerk of the county court for DeKalb county, be and he is hereby authorised to record all the matters in the said office of county clerk which ought by law to have been recorded during his term of service as such clerk.

A. W. Majors the same.

Approved, February 9, 1852.

[No. 440.]

## AN ACT

To authorise Dr. M. Randall, of the county of Fayette, to collect moneys due him for his professional services.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Dr. Milford Randall, of the county of Fayette, be and he is hereby authorised to collect the money due him for his professional services as though he had a license to practice medicine; any law to the contrary notwithstanding.

Approved, February 9, 1852.

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[No. 441.]

## AN ACT

For the relief of Alexander Rodgers.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Alexander Rodgers, who was convicted in the circuit court of Montgomery county, at the spring term thereof, 1847, of the crime of obtaining money under false pretences, be and he is hereby restored to all the civil rights and privileges which he possessed before said conviction.

Restored to  
privileges.

Approved, February 9, 1852.

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[No. 442.]

## AN ACT

For the relief of Thomas T. Tunstall and others.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Thomas T. Tunstall, Peyton R. Tunstall, Mary A. Tunstall, Tracy E. Lumsden, Elizabeth E. Weatherford, Rebecca B. Tunstall, Geo. W. Tunstall, Edmund S. Tunstall, children of the late George Tunstall and his widow, Elouisa Tunstall, (who is of Indian descent from the third generation;) also, Geo. W. Tarvin, Peter R. Tarvin, Mary E. Tarvin, William Tarvin, Douglas E. Tarvin, Leonard Tarvin, children of the late Elijah Tarvin and his widow, Elizabeth, now Elizabeth Patrick, (who is of Indian descent from the third generation;) also, Elizabeth Stedham, Richard M. Tarvin, Marion Tarvin, Victoria Tarvin, Medlin Tarvin and Edgar J. Tarvin, children of Elisha Tarvin and his late wife, Terrissa Tarvin, (who was of Indian descent from the third generation;) also, William Sizemore, Wm. T. Powell,

Declared citi-  
zens of Ala.



Margaret McDonald, David O. Morviac, Alexander McWeatherford and Josephine Drissback, (who are also of Indian descent,) be and they and their heirs are hereby declared citizens under the law, capable of exercising all the rights, immunities and privileges of the State of Alabama as fully as they would if they were not of Indian descent.

Sec. 2. Be it further enacted, That all the privileges, &c., of the first section of this act be and are hereby extended to John D. Weatherford.

Repeals.

Sec. 3. And be it further enacted, That all laws contravening the provisions of this act be and the same are hereby repealed.

Extended.

Approved, January 30, 1852.

[No. 443.]

AN ACT

For the relief of Mary E. Hughes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Mary E. Hughes be and she is hereby relieved from the disabilities and penalties imposed by law on all persons against whom a divorce may be granted.

Approved, February 9, 1852.

[No. 444.]

AN ACT

For the relief of S. R. Hereford.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the commissioners' court of roads and revenue for the county of Montgomery and the corporate authorities of the city of Montgomery are hereby authorized and fully empowered to appropriate such sum of money as they may deem proper from the treasuries of said county and city, jointly or severally, to S. R. Hereford, as a compensation for his services and a remuneration of his expenses rendered and incurred as jailor of said county during the prevalence of the small pox in the city of Montgomery in the year 1851.

Money may be appropriated.

Approved, February 7, 1852.

[No. 445.]

## AN ACT

For the relief of William F. Roberts.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the boundary of the town of Talladega shall be and is hereby altered, only so far as may be necessary to leave the dwelling house and buildings on lot number one hundred and forty-six in the plan of said town, now occupied and used by William F. Roberts, out of the limits of said town or corporation.

Approved, February 7, 1852.

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[No. 446.]

## AN ACT

For the relief of M. H. Jones.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of fifty dollars be and the same is hereby appropriated to pay M. H. Jones for services in going to the State of Mississippi, apprehending and bringing back to Jefferson county in this state J. F. Thompson, charged with the crime of perjury; and that the comptroller draw his warrant upon the treasurer in favor of the said M. H. Jones for said sum of fifty dollars, to be paid out of any money in the treasury not otherwise appropriated.

\$50 allowed.

Approved, February 5, 1852.

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[No. 447.]

## AN ACT

Making appropriations to pay certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sum of money be and the same is hereby appropriated to the payment of the following named person, to-wit: To Theophilus White, sheriff of Russell county, for conveying Hugh McLane, a state prisoner, from the penitentiary to Crawford, in Russell county, by order of court, twenty-seven dollars and thirty-five cents.

T. White.

Sec. 2. And be it further enacted, That the comptroller of

public accounts be and he is hereby required to draw his warrant on the treasurer in favor of the person named in the first section of this act for the amount therein allowed, to be paid out of any money in the treasurer not otherwise appropriated.

Approved, February 10, 1852.

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[No. 448.]

AN ACT

To compensate a certain person therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasury for one hundred and eighteen dollars, to compensate William B. Figures for services done by him under the direction of the comptroller, in correcting the maps of the State of Alabama.

W. B. Figures.

Approved, January 29, 1852.

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[No. 449.]

AN ACT

To provide for the payment of certain claims against the state for servant hire and sundry articles for the use of the general assembly.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to draw his warrant upon the state treasurer in favor of the persons and for the amounts hereinafter mentioned, to be paid out of any money in the treasury not otherwise appropriated, to-wit:

Comptroller to draw warrant in favor of.

In favor of W. B. and A. R. Bell, for the sum of eight hundred and ten dollars and sixty-one cents, for sundry articles furnished for the use of the general assembly and supreme court during the present session.

W. B. & A. R. Bell.

In favor of Lewis Owen & Co., for the sum of two hundred and seventy-six dollars and eighty cents, for a clock for the use of the house of representatives, fenders for the different offices and rooms in the capitol and lamp oil for the use of the two houses of the present general assembly.

L. Owen & co.

In favor of Samuel Morrell, for two hundred and forty-nine dollars and seventy-five cents, for wood furnished during the present session.

S. Morrell.



In favor of Flora Campbell, for ninety-six dollars, for servant hire during the present session.

J. Campbell.

In favor of Hugh W. Henry, for sixty dollars, for servant hire during the present session.

H. W. Henry.

In favor of George Montague, for ninety-six dollars, for servant hire during the present session.

Geo. Montague.

In favor of W. B. and A. R. Bell, for candles furnished for the use of the senate, five dollars.

W. B. & A. R. Bell.

Sec. 2. And be it further enacted, That the appropriation contemplated and provided for in the act passed at the present session of the general assembly entitled "an act to provide for the comfort of citizens visiting the capitol," approved 10th December, 1851, shall be paid upon the warrant of the comptroller out of any money in the treasury not otherwise appropriated; and the comptroller shall draw his warrant for the same or any portion thereof, upon the certificate of the secretary of state, that the work required in said act to be performed has been done according to law and contract.

Approved, February 10, 1852.

[No. 450.]

# AN ACT

Making appropriations to pay certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated for the payment of the following persons, to-wit:

Appropriations  
to

To D. W. Jones, for one copy of the map of the United States by Mohk, and one copy of the map of this state by La Tourette, nineteen dollars.

D. W. Jones.

To M. Kelly, for hire of his negro boy Peter forty-four days at the state capitol during the session of the legislature of 1851 and 1852, forty-four dollars.

M. Kelly.

Sec. 2. Be it further enacted, That the comptroller be and he is hereby required to draw his warrant on the treasury in favor of each person named in the first section of this act for the respective amounts therein allowed, to be paid out of any money in the treasury not otherwise appropriated.

Comptroller  
authorised to  
draw on treasury.

Sec. 3. And be it further enacted, That the further sum of ten dollars be appropriated to Thomas F. Pettus, door keeper of the senate, for collecting in the stationary,

Thos. F. Pettus.

&c., after the adjournment; and the comptroller is authorised to issue his warrant on the treasurer for the same.

Approved, February 9, 1852.

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[No. 451.]

AN ACT

For the payment of certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated to the payment of the following persons:

Appropriations  
to

To. A. P. Pfister, for official envelopes, record books, &c., A. P. Pfister.  
twenty-one dollars and sixty-two cents.

To Joel Heath, jailor of Autauga county, for feeding state prisoners in the years 1849 and '50, fifty-eight dollars and fifty cents.

Joel Heath.

To Charles Price, for services as clerk for committee thirty-two days, at four dollars per day, one hundred and twenty-eight dollars.

Chas. Price.

To James H. Cooper, for services as clerk ten days, at four dollars per day, forty dollars.

J. H. Cooper.

To Monroe Donohoe, late register of the land office, at Tuscaloosa, for correcting township maps, one hundred and ninety-eight dollars and fifty cents.

M. Donohoe.

To William Garrett, secretary of state, balance due for taking care of the state capitol, one hundred and twenty dollars and ninety-eight cents.

W. Garrett.

To A. P. Pfister, for three ink stands, two rules, one wafer box and one large ink stand, seven dollars and forty cents.

A. P. Pfister.

To James Mudd, for coal and freight, one hundred and ninety-six dollars and fifty cents.

James Mudd.

To Otaway M. Burchett, sheriff and jailor of Greene county, for feeding state prisoners and executing five slaves, &c., and taking Groom and Kay, two hundred and forty-three dollars and twenty-five cents.

O. M. Burchett.

To. P. A. Savage, jailor of Marengo county, for keeping, feeding, and conveying Edmond, a slave, forty-three dollars and twenty-five cents.

P. A. Savage.

To Bates and Newhall, for putting bolt on door and fitting three keys, two dollars and fifty cents.

Bates and Newhall.

To Joseph Tuck, security of Burgess, tax collector of Coosa county, for an amount overpaid to the state on ac-

Jos. Tuck

count of the default of said tax collector on two judgments, nine dollars and fifty-six cents.

To F. A. Savage, jailor of Marengo county, for feeding Richard H. West, forty days, ten dollars.

F. A. Savage.

To John Powell, for burial expenses of Dr. John R. Larkins, seventy-eight dollars.

Jno. Powell.

To John Williamson, jailor of Talladega county, for victualling state prisoners, six dollars and twenty-five cents.

J. Williamson.

To John Powell, for desks, cases, keys, &c., one hundred and fourteen dollars and fifty cents.

Jno. Powell.

To James J. Adams, sheriff of Cherokee county, for keeping state prisoners up to January, 1852, two hundred and twelve dollars.

J. J. Adams.

To B. H. Spyker, for services as clerk for the committee on education thirty-four days, at four dollars per day, one hundred and thirty-six dollars.

B. H. Spyker.

To C. F. Lewis, sheriff of Macon county, for removing state prisoners under the order of the court and making returns from congressional elections, ninety-six dollars and seventy-six cents.

C. F. Lewis.

To James M. Brundidge, for sundry articles, seven dollars and seventy-five cents; and for collecting stationary, &c., ten dollars.

J. M. Brundidge.

Sec. 2. And be it further enacted, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the treasurer in favor of each person named in the first section of this act for the respective amounts therein allowed, to be paid out of any money in the treasury not otherwise appropriated.

Comptroller authorised to draw his warrant.

Approved, February 10, 1852.

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[No. 452.]

AN ACT

Making appropriations for the payment of certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated to the payment of the following persons herein named:

Appropriations to

To Stowe and Booth, for two large coal stoves and other fixtures for the lobby of the house of representatives, eighty-six dollars and eighty-eight cents.

Stowe & Booth.

To Irby Wooly, for carrying the maps of St. Clair county

Irby Wooly.



to Tuscaloosa and Huntsville for correction, forty-two dollars and fifty cents.

To Thomas M. Mosely, late sheriff of Madison county, for amount paid A. L. McKinney, jailor of Limestone county, for victualling Philip Pritchett, charged with murder, there being no jail in Madison county at the time, thirty-two dollars and seventy-five cents.

T. M. Mosely.

To Thomas M. Mosely, for conveying George M. Campbell, state prisoner, before the honorable S. C. Posey, judge of the circuit court at Florence, Alabama, on a writ of habeas corpus, eighteen dollars and seventy-five cents.

T. M. Mosely.

To the Alabama Journal office, for printing done in the years 1848 and 1849, one hundred and sixty-two dollars and fifty cents.

Alabama Journal office.

To Bates and Newhall, for putting bolt and spring to the gallery door, two dollars and seventy-five cents.

Bates & Newhall.

To James S. Clements, sheriff and jailor of St. Clair county, for victualling William Hughes, a state prisoner, charged with the crime of larceny, forty-eight dollars and twenty-five cents.

J. S. Clements.

To Thomas Burton, for putting up shelves in secretary's, state library and other offices, one hundred and twenty-five dollars.

Thos. Burton.

To James A. Hogan, for services as secretary to the committee on congressional apportionment, one hundred dollars.

Jas. A. Hogan.

To James W. Ligon, for bringing Joseph M. Palmer, by order of the court, from Pikeville, Marion county, to Russellville, Franklin county, Alabama, for an attempt to commit murder, twenty-three dollars and twenty-five cents.

Jas. W. Ligon.

To Samuel Morell, for wood furnished the state capitol, seventy-seven dollars and fifty cents.

Saml. Morell.

To W. P. Terry, sheriff of Morgan county, for executing Henry, a slave, by order of the court, ten dollars.

W. P. Terry.

To Andrew Lawson, sheriff of Talladega county, for comparing and making the congressional returns to the seat of government, twenty-one dollars.

A. Lawson.

To W. Dobson, for spring to representative door, furnishing keys and locks to the desks of the house of representatives, eight dollars.

W. Dobson.

To L. L. Whatley, for one cord of wood, draying books and putting up the same, thirteen dollars.

L. L. Whatley.

To E. W. Sanders, for correcting township maps, one hundred and twenty-four dollars.

E. W. Sanders.

To J. L. S. Morgan, for three dozen chains for the lobby of the house, fifty-four dollars and seventy-five cents.

J. L. S. Morgan.

To Robert Parker, sheriff of Bibb county, for comparing returns of congressional elections one day, three dollars.

Robt. Parker.

To Amand P. Pfister, for one blank book, red ink, steel pens and paper, twenty-six dollars and twenty-five cents.

A. P. Pfister.

To Seth Mabry, sheriff of Barbour county, for conveying John McAlister, a state prisoner, from the penitentiary to Clayton, Barbour county, by order of the court, forty-three dollars and seventy-five cents.

Seth Mabry.

To Seth Mabry, sheriff of Barbour county, for conveying Harmless W. Hurst, a convict, from the penitentiary to Clayton, Barbour county, by order of the court, forty-three dollars and fifty-five cents.

Seth Mabry.

To the same, for making congressional returns three days, nine dollars.

To James M. Brundidge, for freight paid on five carts of coal, seven dollars and fifty cents.

J. M. Brundidge.

To E. A. Mead, former jailor of Jackson county, for victualling state prisoners, sixty-three dollars and seventy-five cents.

E. A. Mead.

To P. B. Raiford, sheriff of Perry county, for expenses in bringing Henry Ham from the penitentiary to Marion, Perry county, by order of the supreme court, and victualling the same in jail, thirty-nine dollars and fifty cents.

P. B. Raiford.

To Brittan and DeWolf, for publishing proposals for letting out the state printing in weekly and tri-weekly papers, one hundred and fifty dollars.

Brittan & DeWolf.

To S. A. Pearce, sheriff of Coosa county, for victualling Young, a slave, the property of Patrick McKinney, who was condemned to be hung and for all other incidental expenses to the execution and burial of the same, twenty-three dollars and fifty cents.

S. A. Pearce.

Sec. 2. And be it further enacted, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasurer for the respective sums above specified, to be paid out of any money not otherwise appropriated.

Comptroller authorised to draw his warrant.

Approved, February 4, 1852.

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[No. 453.]

AN ACT

Making appropriations to pay certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated to the payment of the following persons herein named:

Appropriations to

To A. B. Herbert, register of the land office at Montgomery, for correcting township maps in the Montgomery land district, eighty-three dollars.

A. B. Herbert.

To B. Holt, for cutting through back wall of the Madison House, making door, &c., for the accommodation and convenience of the supreme court, twenty-five dollars.

B. Holt.

To James F. Hutchinson, sheriff of Mobile county, for feeding state witnesses who could not give bail, conveying a state prisoner from Mobile to Eutaw, by order of court, expenses of guard to Blakely and back to Mobile, ferriage, &c., five hundred and sixteen dollars and fifty cents.

J. F. Hutchinson.

To William H. Smith, sheriff of Chambers county, for conveying state prisoners, employment and pay of guards, from the penitentiary to Chambers county, by order of court, fifty-eight dollars and fifty cents.

Wm. H. Smith.

To James G. Carroll, for removing the furniture of the two houses of the general assembly, personal attention to the same, &c., eight dollars.

Jas. G. Carroll.

To John G. Lovett, sheriff and jailor of Dallas county, for executing two slaves according to law, and for conveying a state prisoner from Cahaba to Marion, on a writ of habeas corpus, twenty-six dollars and seventy-five cents.

John G. Lovett.

To L. G. McMillan, for four days' work done in the senate chamber, 1851, twenty dollars.

L. G. McMillan.

To T. F. Pettus, for candles, pay of servant hire in cutting wood at the capitol, seven dollars.

T. F. Pettus.

To Stowe and Booth, for two large coal stoves, pipes, &c., for the use of the senate chamber, ninety-one dollars and seventy-five cents.

Stowe & Booth.

Sec. 2. Be it further enacted, That the comptroller of public accounts be and he is hereby required to draw his warrant on the state treasurer in favor of the several persons above named for the respective sums allowed to each, to be paid out of any money in the treasury not otherwise appropriated.

Comptroller authorised to draw his warrant.

Sec. 3. Be it further enacted, That the comptroller is required to draw his warrant in favor of B. H. Spyker on the state treasurer for the sum of six dollars, for services rendered as clerk to the committee appointed to investigate the accounts of Francis S. Lyon.

B. H. Spyker.

Sec. 4. And be it further enacted, That the sum of twenty-one dollars be allowed to L. H. Dickerson for articles furnished the state capitol.

L. H. Dickerson.

Approved, February 10, 1852.



[No. 454.]

## AN ACT

Making appropriations for the payment of certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated out of any money in the treasury not otherwise appropriated and to be paid to the following named persons, to-wit:

Appropriations  
to

To Phillip Woodson, for publishing comptroller's and treasurer's report for the year 1851, ninety dollars.

P. Woodson.

To James Kelsoe, former jailor of Jackson county, for victualling state prisoners, two hundred and forty-seven dollars.

Jas. Kelsoe.

To E. A. Mead, jailor of Jackson county, for victualling state prisoners, three hundred and ninety dollars and twenty-five cents.

E. A. Mead.

To Joseph Johnson and N. F. Sparks for apprehending Hensley Patterson, charged with the murder of Jesse Jackson, and prosecuting him to conviction, twenty-five dollars each.

Joseph Johnson  
and N. F. Sparks.

To John Warren, for publishing comptroller's and treasurer's report for the year 1850, forty-two dollars and fifty cents.

John Warren.

To James M. Evans, of Marshall county, for carrying the township maps of said county to the land offices in Lebanon and Huntsville for correction, by order of the comptroller, twenty-five dollars.

Jas. M. Evans.

To James H. Owen, for five days' services at the capitol, twenty-five dollars.

James H. Owen.

To Alexander Jordan, for bringing Patrick H. Mourning, a fugitive from justice, from the State of Tennessee to Marshall county, Ala., upon the requisition of the governor of this state, fifty dollars.

A. Jordan.

To Hamlin Caldwell, assignee of Joiner Gentry, former jailor of Jackson county, for victualling state prisoners, twenty-five dollars and twenty-five cents.

H. Caldwell.

To John Snodgrass, sheriff of Jackson county, for executing a negro boy Jim, under sentence of the court, ten dollars.

J. Snodgrass.

To John Owen, former sheriff of Henry county, for conveying Francis J. Cobia, a convict, to the penitentiary, thirty-six dollars and fifty cents.

John Owen.

To R. R. Wright, sheriff of Butler county, for conveying Thomas M. Skains from the jail of Montgomery to the

R. R. Wright.

jail of Butler county, by order of the court, seventeen dollars.

To E. A. O'Neal, and James A. Baker, for defending free negro Lewis Robinson, indicted for the murder of a free negro boy, Beverly, under appointment from the circuit court of Lauderdale county, ten dollars.

E. A. O'Neal &  
Jas. A. Baker.

To George Hamner, sheriff of Wilcox county, for bringing negro John, a slave, from the jail of Dallas to Wilcox county, by order of the court, nine dollars.

Geo. Hamner.

To M. M. Bonham, jailor of Wilcox county, for victualing state prisoner, one hundred and seventy-six dollars and twenty-five cents.

M. M. Bonham.

To E. L. Moore, jailor of Wilcox county, for victualling state prisoner, one hundred and twenty-four dollars and twenty-five cents.

E. L. Moore.

To George N. Hamner, sheriff of Wilcox county, for bringing Francis L. Flannegan from the state penitentiary to Wilcox county, by order of the court, twenty dollars and ninety cents.

Geo. N. Hamner.

To Lewis Owen, of Montgomery, for chandeliers for senate and house of representatives, and other articles furnished, one thousand one hundred and twenty-nine dollars and five cents.

Lewis Owen.

To John Figh, for extra work done on state capitol, nine hundred and sixty-eight dollars.

John Figh.

To James D. Randolph, for extra work done on the state capitol, fifteen hundred and fifty-nine dollars.

J. D. Randolph.

Sec. 2. And be it further enacted, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the state treasurer in favor of the individuals named in this act and for the amounts to which they are severally entitled.

Comptroller au-  
thorised to  
draw his war-  
rant.

Approved, January 17, 1852.

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[No. 455.]

AN ACT

To provide for the payment of certain claims against the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the following sums of money be and the same are hereby appropriated to the payment of the following persons, to-wit:

Appropriations  
to

To T. Sanford, for printing treasurer's and comptroller's reports for the year 1851, eighty-five dollars and fifty cents.

T. Sanford.

To William Dobson, for spring to door of the senate chamber, five dollars.

Wm. Dobson.

To Tom Herring, for letting in inkstands, screwing down desks, fixing door, furnishing table, lamp, ladder, &c., in the senate chamber, seventeen dollars and ninety cents.

Tom Herring.

To Bates and Newhall, for fitting keys, new locks, &c., in the senate chamber, seventeen dollars and twenty-five cents.

Bates & Newhall.

To A. B. Herbert, marshal of the supreme court, for wood, laying down carpet in supreme court room, January term, 1851, eighteen dollars.

A. B. Herbert.

To W. P. Pettes, sheriff of Lauderdale county, for executing Newton, a slave, and for executing Lewis Roberts, a free man of color, twenty dollars.

W. P. Pettes.

Sec. 2. And be it further enacted, That the comptroller is hereby required to draw his warrant on the treasurer in favor of the above persons and for the several sums allowed to each.

Comptroller authorised to draw his warrant.

Approved, February 6, 1852.

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[No. 456.]

#### AN ACT

For the relief of James Claxton, of the county of Coffee.

Whereas, it appears to the satisfaction of this general assembly that heretofore in the month of March of the year 1851, in the destruction by fire of the court house and office of the judge of probate of Coffee county, the sum of seventy-two dollars in funds collected by James Claxton, judge of probate of said county of Coffee, for the state, was also consumed; therefore----

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required, in the settlement of the accounts of the said James Claxton, judge of probate, to allow him a credit for the said sum of seventy-two dollars destroyed as aforesaid.

\$72 allowed.

Approved, February 7, 1852.

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[No. 457.]

#### AN ACT

To pay James Floyd, of Conecuh county, for services rendered as constable.

Sec. 1. Be it enacted by the Senate and House of re-



representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to issue his warrant on the state treasurer in favor of James Floyd, of Conecuh county, for the sum of thirteen dollars, to be paid out of any money not otherwise appropriated.

\$10. \*  
\$13

Approved, February 9, 1852.

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[No. 458.]

AN ACT

For the relief of John Judah of Dale county, and John B. Romine, of Walker county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorized to examine and settle the accounts of John Judah, tax collector for Dale county in the year 1850, and to allow him on said settlement the amount of the insolvent list of state taxes for that year: Provided, The same be duly certified by the court of commissioners of revenue and roads of said county as the law directs.

J. Judah.

Sec. 2. And be it further enacted, That the comptroller of public accounts be and he is hereby authorized to issue his warrant on the state treasurer for sixteen dollars and four cents in favor of John B. Romine, late tax collector of the county of Walker.

\$16.04 to J. B. Romine.

Approved, February 10, 1852.

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[No. 459]

AN ACT

To compensate John W. Murphy and Samuel Palmer for money paid out and services rendered the state.

Whereas, the above named John W. Murphy and Samuel Palmer did, by the request of many good citizens and at their own instance and own expense, pursue into the State of Mississippi, arrest and bring back to trial in the circuit court of Bibb county, two certain persons named James Reed and Martin Reed, charged with an aggravated case of assault and battery with intent to kill, and who were convicted and sentenced to confinement in the penitentiary for the term of seven years each; therefore---

Preamble.

Sec. 1. Be it enacted by the Senate and House of Repre-

sentatives of the State of Alabama in General Assembly convened, That the comptroller draw his warrant on the treasurer in favor of the said John W. Murphy and Samuel Palmer for the sum of forty dollars each, as a full compensation to them for their said services and expenses.

\$40 each.

Approved, February 10, 1852.

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[No. 460.]

AN ACT

For the relief of John T. Rather and Jonathan Orr.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of state be and he is hereby authorised to draw his warrant on the state treasurer in favor of John T. Rather and Jonathan Orr, for the sum of fifty dollars and eighty cents; and that the same be paid out of any money in the treasury not otherwise appropriated; that sum of money being the amount to which the said Rather and the said Orr are entitled because of the purchase by them from said state at the land office at Courtland, on the 12th of April, 1838, of the west-half of the south-west quarter, of section thirty-three, township seven, range three, west; the said land so by them purchased belonging to the general government and not to this state: Provided, The said Rather and the said Orr shall receive said sum of money as a full remuneration for the amount by them paid the state for said land.

\$50.80.

Proviso.

Approved, January 29, 1852.

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[No. 461.]

AN ACT

For the relief of Alfred Nance, et al., securities of James Lacy, deceased, former tax collector of Dallas county.

Whereas, James Lacy, tax collector for the county of Dallas, for the year 1849, owing to sickness and other unavoidable causes, failed to present to the comptroller as required by the forty-seventh section of the revenue act, approved 6th of March, 1849, for allowance, his claims for errors of assessment, insolvencies, removals and amount paid the assessor; and whereas, owing to the said Lacy's death, it has devolved upon his securities to complete the collection of taxes and settle with said county of Dallas, therefore---

Preamble.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller be and he is hereby required and directed to make the same settlement and allowance upon the claims above specified as he was authorised and required by law to make, if the same had been presented to him within the time prescribed by the forty-seventh section of the revenue act, approved 6th of March, 1849, and issue his warrant on the treasurer for the amount found to be due thereon in favor of Alfred Nance, P. J. Weaver, J. F. Houston, J. K. Campbell and Frances Lacy, the securities of the said James Lacy.

Comptroller  
shall make  
settlement.

Approved, February 7, 1852.

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[No. 462.]

#### AN ACT

For the relief of J. M. Gullatt, late tax collector of Jackson county, and the representatives of W. H. Bryant, of Autauga county.

Sec. 1. Be it enacted by the Senate and House of representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasury in favor of James M. Gullatt, late tax collector of Jackson county, for the sum of twenty dollars and nineteen cents, the amount overpaid by said Gullatt in the settlement of the taxes of Jackson county for the year 1850.

\$20.19.

Sec. 2. And be it further enacted, That the comptroller of public accounts draw his warrant on the treasury in favor of the legal representatives of William H. Bryant, late tax collector for Autauga county, for the sum of one hundred and fifty-three<sup>60</sup>~~100~~ dollars, amount of taxes overpaid by said Bryant for the year 1850.

\$153.60.

Approved, January 29, 1852.

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[No. 463.]

#### AN ACT

To authorise the comptroller of the state to issue his warrant on the treasury for excess of taxes paid by James A. Chapman, a non-resident tax payer.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is here-



by authorised to issue his warrant in favor of James A. Chapman, his agent or attorney, upon the treasurer of the state for the sum of seventy-seven ~~100~~ dollars, excess of taxes collected of said James A. Chapman by Stephen Hudson, the then legally authorised tax collector for Russell county, for his taxes for the year 1846, as a non-resident citizen of this state under the provisions of an act approved 5th February, 1846.

\$77.00.

Approved, January 28, 1852.

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[No. 464.]

AN ACT

For the relief of William B. Crews, of Barbour county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it being shown by satisfactory proof that William B. Crews, of Barbour county, was compelled to pay the sum of money hereinafter named, without any fault or neglect of his own, in consequence of making publication of certain lands as tax collector of said county in pursuance of the revenue laws passed at the session of 1847-'48, which, after allowing all just deductions, amount to four hundred and sixty-six<sup>91</sup>~~100~~ dollars, the comptroller of public accounts is hereby directed to draw his warrant on the treasury in favor of the said William B. Crews for the said sum of four hundred and sixty-six<sup>91</sup>~~100~~ dollars: Provided, Said Crews has made full and complete settlement for all moneys due through him to the state tax collector.

\$466.91.

Approved, January 30, 1852.

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[No. 465.]

AN ACT

For the relief of Miles Whilis.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of twenty-five dollars be and the same is hereby appropriated to Miles Whilis for apprehending, guarding and taking to the penitentiary one Ford, a convict, who had escaped from the penitentiary; and that the comptroller of public accounts be authorised to draw his warrant on the treasurer for said amount out of any moneys not otherwise appropriated.

\$25.

Approved, February 4, 1852.

[No. 466.]

AN ACT

For the relief of John Schirm, tax collector of Marengo county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of the state draw his warrant on the state treasury in favor of John Schirm, of Marengo county, for the sum of sixty-one <sup>60</sup>/<sub>100</sub> dollars, amount of insolvencies allowed him as tax collector of Marengo county for the year 1850; and that the state treasurer is hereby authorised and required to pay the amount so authorised to be drawn.

\$61.60.

Sec. 2. And be it further enacted, That in like manner the said Schirm shall receive from the state treasury the further sum of thirty-nine <sup>14</sup>/<sub>100</sub> dollars, the amount of over and improper assessments of Marengo county for the year 1850, so soon as he shall produce to the comptroller a certificate from the judge of probate of said county that the commissioners' court of said county have passed upon and allowed the same: Provided, That said comptroller may pay any amount allowed by said court, not to exceed the amount above named of thirty-nine <sup>14</sup>/<sub>100</sub> dollars, specified in this section of said over or improper assessments; any law, usage or custom to the contrary notwithstanding; this proviso shall, however, have no application to section one in this act.

\$39.14.

Approved, February 3, 1852.

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[No. 467.]

AN ACT

For the relief of John Stuardi.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That on account of extraordinary services and money actually paid out and expended by John Stuardi, of Mobile county, traveling after, prosecuting and bringing to punishment a certain H. A. Johnston, charged and convicted of negro stealing before the city court of Mobile at the April term, 1851, the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the treasurer in favor of said John Stuardi for the sum of one hundred and eighty dollars, to be paid out of any money in the treasury not otherwise appropriated.

\$180.

Approved, February 6, 1852.

[No. 468.]

## AN ACT

For the relief of Benjamin Howell.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of one hundred dollars be and the same is hereby appropriated to the payment of Benjamin Howell for expenses incurred by him in going, under the directions of the governor of this state, for the purpose of bringing one Edward Jones, a fugitive from justice, charged with horse stealing, then confined in Jasper county in the State of Mississippi. \$100.

Sec. 2. And be it further enacted, That the state comptroller be and he is hereby authorised to issue his warrant on the state treasurer for the sum of one hundred dollars, to be paid out of any money in the treasury not otherwise appropriated in favor of said Benjamin Howell.

Approved, February 6, 1852.

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[No. 469.]

## AN ACT

For the relief of Thomas H. Giles, tax collector of Madison county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be authorised to draw his warrant on the state treasurer in favor of Thomas H. Giles, tax collector of Madison county for the year 1851, for such over payment as on a final settlement of the taxes for that year it may appear that said Giles has made.

Approved, February 6, 1852.

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[No. 470.]

## AN ACT

To compensate James H. McCarroll, jailor of Marshall county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of two hundred and thirty-four dollars and seventy-five cents be and the same is hereby appropriated for the payment of James H. McCarroll, jailor of Marshall county, for victualling state prisoners; and that the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the treasurer of the \$234.75.



State of Alabama in favor of said James E. McCarroll for the above named amount of two hundred and thirty-four dollars and seventy-five cents, to be paid out of any money in the treasury not otherwise appropriated.

Approved, January 24, 1852.

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[No. 471.]

AN ACT

For the payment of William McCarty, jailor of Jefferson county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller be and he is hereby authorised to draw his warrant upon the treasurer in favor of William McCarty for the sum of seventy-three dollars and seventy-five cents for victualling one Matthew Wedgeworth, a prisoner charges with an assault to commit murder in the county of Jefferson.

\$73.75.

Approved, December 11, 1851.

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[No. 472.]

AN ACT

For the relief of Peter McGee, late tax collector of Pickens county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to draw his warrant on the state treasurer in favor of Peter McGee, late tax collector of Pickens county, for the sum of three hundred and twenty-six <sup>57</sup>/<sub>100</sub> dollars, to be paid out of the treasury of this state.

\$326.57.

Approved, February 10, 1852.

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[No. 473.]

AN ACT

For the relief of Mark Boulware.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to draw his warrant upon the state treasurer in favor of Marck Boulware for the sum of fifty-three <sup>90</sup>/<sub>100</sub> dollars, to be paid out of any moneys in the treasury of this state not otherwise appropriated.

\$53.90.

Approved, February 10, 1852.

[No. 474.]

## AN ACT

For the relief of Young C. Hall, late tax collector of Baldwin county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasury in favor of the said Young C. Hall for the sum of one hundred and forty-nine <sup>95</sup>~~100~~ dollars, to be paid out of any moneys in the treasury not otherwise appropriated. \$149.95.

Approved, February 7, 1852.

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[No. 475.]

## AN ACT

For the relief of James Donley, late tax collector of Talladega county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to draw his warrant on the treasurer in favor of James Donley, late tax collector of Talladega county, for the sum of two hundred and fourteen <sup>18</sup>~~100~~ dollars, to be paid out of any moneys in the treasury not otherwise appropriated. \$214.18.

Approved, February 9, 1852.

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[No. 476.]

## AN ACT

To pay Joseph C. Brooks, of Pike county, forty-seven dollars.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the state treasurer in favor of Joseph C. Brooks, of Pike county, for the sum of forty-seven ~~100~~ dollars, being the amount of insolvencies uncollected by him as collector of the state taxes for Pike county: Provided, The said Brooks shall have fully accounted with the proper department for all moneys for which he is chargeable as tax collector as aforesaid before this act shall enure to his benefit. \$47.28.

Approved, February 9, 1852.

[No. 477.]

## AN ACT

To compensate Nimrod E. Benson and Justus Wyman for services rendered the state as commissioners to superintend the building of new state house.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of one thousand dollars, each, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated to Nimrod E. Benson and Justus Wyman, the commissioners for building the state house; and that the comptroller of public accounts be and he is hereby directed to draw his warrant on the state treasurer for the same. \$1000 each.

Approved, February 9, 1852.

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[No. 478.]

## AN ACT

For the relief of Charles F. Lewis, sheriff of Macon county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the state treasurer in favor of Charles F. Lewis, sheriff of Macon county, for the sum of forty-five dollars and twenty-five cents, for feeding Thomas J. Caddenhead, a state prisoner. \$45.25.

Approved, February 5, 1852.

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[No. 479.]

## AN ACT

To compensate Sampson Clayton for certain services therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be required to draw his warrant on the state treasurer in favor of Sampson Clayton, register of the land office in the Coosa land district, for the sum of one hundred and nine dollars, for his services in correcting the township maps of said land district. \$109.

Approved, January 29, 1852.



[No. 480.]

## AN ACT

For the relief of Thomas G. Cole, of the county of Choctaw.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the state treasurer in favor of Thomas G. Cole for the sum of eight hundred and fifty dollars, with interest thereon from the second Friday in February, 1850, out of any moneys not otherwise appropriated: Provided, That the same be paid out of the fund raised for the payment of executed slaves.

\$850 and interest.

Proviso.

Approved, January 30, 1852.

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[No. 481.]

## AN ACT

For the relief of E. and R. Brevard.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of one hundred and sixty-three dollars be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to be paid to E. and R. Brevard for the excess of taxes paid by them as non-residents, under the act approved 5th February, 1846, for the year 1846-'47 and 1847-'48; and that the comptroller be and he is hereby required to draw his warrant on the treasurer in favor of the said E. and R. Brevard for the said sum of one hundred and sixty-three dollars.

\$163.

Approved, February 4, 1852.

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[No. 482.]

## AN ACT

For the relief of Benjamin B. Rogers, tax collector of Madison county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to issue his warrant upon the state treasurer in favor of Benjamin B. Rogers, tax collector of Madison county for 1851, for the sum of sixty-nine <sup>40</sup>/<sub>100</sub> dollars, unjustly paid by him in 1851, to be paid out of any money in the treasury not otherwise appropriated.

\$69.40.

Approved, February 6, 1852.

[No. 483.]

## AN ACT

For the relief of E. L. Moore, jailor of wilcox county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of one hundred and nineteen ~~75~~<sup>100</sup> dollars be and the same is hereby appropriated to E. L. Moore, jailor of the county of Wilcox, for keeping Joseph W. Outlaw, a state prisoner; and that the comptroller be and he is hereby authorised to issue his warrant on the treasury for the same.

Approved, February 9, 1852.

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[No. 484.]

## AN ACT

For the relief of John H. Gee and Moses Johnson, late tax collectors of Sumter and Shelby counties.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be authorised to settle with John H. Gee, late tax collector of Sumter county, and Moses Johnson, late tax collector of Shelby county, in the same manner as if the returns of said Gee and Johnson of insolvents and removals had been made in the time prescribed by law.

Approved, January 28, 1852.

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[No. 485.]

## AN ACT

To fix the compensation of the commissioners to codify the laws of the state.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That George Goldthwaite, John J. Ormond and Arthur P. Bagby be and they are hereby allowed, each, the sum of two thousand dollars as a compensation for their services in preparing a code of laws for the state; and the comptroller of public accounts is hereby required to draw his warrant on the treasury in favor of each of said commissioners hereinabove named for the sum of two thousand dollars, to be paid out of any money not otherwise appropriated.

\$2000 each.

Approved, February 9, 1852.

[No. 486.]

AN ACT

To refund to Lancelot Johnston the amount of taxes improperly assessed for the year 1847.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the amount of seventy-seven dollars and forty cents, which Lancelot Johnston, a non-resident, paid to the tax collector of Macon county in the year 1847, who has failed, the same being an excess of tax upon the slaves of said Johnston, be and the same is hereby refunded to the said Lancelot Johnston.

Sec. 2. And be it further enacted, That the comptroller be and he is hereby required to issue his warrant on the state treasurer in favor of the said Lancelot Johnston for the said sum of seventy-seven dollars and forty cents.

Approved, January 29, 1852.

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[No. 487.]

AN ACT

To compensate John D. Holley for certain services.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of one hundred and fifty dollars be and the same is hereby appropriated out of any funds in the treasury not otherwise appropriated to John D. Holley, to compensate him for pursuing and arresting a slave named Solomon, convicted of murder; and that the comptroller be directed to draw his warrant on the treasury for the same.

\$150.

Approved, February 9, 1852.

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[No. 488.]

AN ACT

To compensate John and Joseph Ray.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasurer for the sum of one hundred dollars, out of any money not otherwise appropriated, in favor of John and Joseph Ray for services rendered, in arresting and bringing from the State of Arkansas John Barnes, a fugitive from justice.

\$100.

Approved, February 10, 1852.



[No. 489.]

## AN ACT

For the relief of Aaron Askew, tax collector of the county of  
Lauderdale.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby authorised to draw his warrant on the treasurer of the state in favor of Aaron Askew, tax collector of the county of Lauderdale, for the sum of forty dollars and seventy-six cents, it being the amount overpaid by said Aaron Askew as tax collector for the year 1849.

\$40.76.

Approved, February 9, 1852.

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[No. 490.]

## AN ACT

For the relief of Harrison F. Bizzle.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to make full, final and complete settlement with Harrison F. Bizzle, former tax collector of the county of Coffee; and in said settlement, the said Harrison F. Bizzle shall only be required to pay the amount of taxes collected by him as tax collector as aforesaid, reserving the commissions allowed him by law.

Settlement to  
be made.

Sec. 2. And be it further enacted, That if on said settlement it shall appear that said Bizzle has already paid more than the amount collected by him as tax collector as aforesaid, the comptroller shall issue his warrant in favor of said Bizzle on the treasurer for the excess; that said settlement shall operate as a release from any judgment obtained against said Bizzle, tax collector as aforesaid: Provided, however, That said Bizzle shall pay all costs incurred by him as a defaulting tax collector.

Relieved.

Approved, February 9, 1852.

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[No. 491.]

## AN ACT

For the benefit of the sheriff of Shelby county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby

required to issue his warrant upon the state treasurer in favor of James M. Findley, sheriff of Shelby county, for the sum of eighty-two dollars, being the amount of his account for keeping Sanford Bowman, a state prisoner, in the jail of said county in 1849 and 1850. \$82.

Approved, February 6, 1852.

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[No. 492.]

AN ACT

For the relief of W. B. Locke, of Morgan county.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the sum of four hundred and seventy-dollars be and the same is hereby appropriated to William B. Locke, of Morgan county; and that the comptroller be and he is hereby authorised to issue his warrant for the same: Provided, The said warrant shall not issue until the said William B. Locke shall make returns to the governor of the maps of the townships as made out and surveyed by him, in such form as the governor may prescribe. \$470. Proviso.

Approved, February 7, 1852.

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[No. 493.]

AN ACT

For the relief of J. C. Kirkland, of the county of Fayette.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts be and he is hereby required to draw his warrant upon the state treasurer in favor of John C. Kirkland, tax collector for the county of Fayette for the year 1849, for the sum of ninety dollars and twenty-four cents, to be paid out of any moneys in the treasury not otherwise appropriated. \$90.24.

Approved, February 9, 1852.

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[No. 494.]

AN ACT

To compensate J. H. Cooper for certain services therein named.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly

convened, That the comptroller of public accounts be and he is hereby authorised and required to draw his warrant on the state treasury for the sum of fifty-two dollars in favor of James H. Cooper, for services rendered as clerk to the joint committee on the code, to be paid out of any moneys not otherwise appropriated.

\$52.

Approved, February 9, 1852.

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[No. 495.]

AN ACT

For the relief of John Woddell and Delila Naramore.

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the marriage heretofore solemnised and existing between John Woddell and Delila Naramore, of the county of Jefferson, be and the same is hereby legalised and made valid, and that said parties be released from all the penalties of the law against illegal marriages.

Approved, January 29, 1852.



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JOINT RESOLUTIONS AND MEMORIALS.

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JOINT RESOLUTIONS

Proposing a call of a convention to alter and reform the constitution of the State of Alabama.

Whereas, "all political power is inherent in the people, and all free governments are founded upon their authority and instituted for their benefit, and therefore they have an inalienable and indefeasible right to alter, reform or abolish their form of government in such manner as they may think expedient:"

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it is expedient to call a general convention of the people of this state, to take into consideration the necessity of altering and reforming the constitution thereof; and to the end that the sense of the people may be taken thereon, it is hereby proposed that the qualified voters of this state be assembled, by proclamation of the governor, on the first Monday in August, in the year of our Lord one thousand eight hundred and fifty-two, at the usual place of voting in their respective counties, and that polls be opened under the rules and regulations now governing the election of members of the house of representatives in the general assembly of this state.

2. Be it further resolved, That at said polls it shall be the duty of the returning officers or one of the judges to propose to each voter as he presents himself, the question, "Convention or no convention?" and the clerks of said poll shall register the vote so given; and it shall be the duty of the sheriffs of the several counties to make return of the votes so given to the secretary of state by the first Monday in September next after such election; and if any sheriff shall fail to do so, he shall be liable to the penalties to which he would now be subjected for failing to discharge his duty in returning the votes cast in his county for the office of governor.

3. Be it further resolved, That within twenty days after such returns are made, it shall be the duty of the secretary of state, comptroller and treasurer to open and count the votes in said returns in the presence of the governor; and if upon such counting it shall appear that a majority of all the votes cast is in favor of a convention, it

shall be the duty of the governor to make the same known by proclamation, and to issue to the sheriffs of the several counties writs for the election of as many members from each county to said convention as the several counties shall be entitled to members in the house of representatives in the general assembly, under the apportionment to be made at the present session of the legislature, which election shall be held on the first Monday in March, in the year of our Lord one thousand eight hundred and fifty-three, and shall be governed in all respects by the laws then in existence regulating the election of members to the house of representatives in the general assembly, and the persons elected thereat shall be returned in like manner.

4. Be it further resolved, That said convention shall assemble at the capitol, in the city of Montgomery, on the first Monday of May, in the year one thousand eight hundred and fifty-three, and continue in session until their labors are completed; and when they shall have altered and reformed the present constitution, as to them shall seem meet and the good of the people require, they shall submit the instrument made by them to the people of the state for their ratification or rejection, at an election to be ordered by the governor, who shall by proclamation fix a day for such election, not less than three nor more than four months from the day on which such convention shall adjourn; and if at such election a majority of the qualified voters for the state shall vote for the ratification of the instrument so made, it shall be the Constitution of the State of Alabama, and the governor shall make known the fact of such ratification by his proclamation to that effect.

5. Be it further resolved, That the vote taken on the ratification of the instrument made by such convention shall be governed by the rules laid down in the first, second and third of these joint resolutions prescribing the manner of ascertaining the sense of the people on calling a convention and the mode of counting the votes cast thereon.

6. Be it further resolved, That the members of the said convention and the officers thereof shall each be entitled to receive the sum of two dollars and fifty cents per day for each day they may be engaged in convention, and the members of said convention the same mileage now allowed to members of the legislature.

7. And be it further resolved, That in the event said convention shall be holden and a constitution be prepared by the same, his excellency the governor shall cause ten thousand copies thereof to be published so soon after the rising of the convention as may be, and distributed among the several counties in proportion to their respective population.

JOHN D. RATHER,

Speaker of the House of Representatives.

CHARLES MCLEMORE,

President of the Senate.

Approved, February 9, 1852.

H. W. Collier.



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JOHN D. RATHER,

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CHARLES MCLEMORE,

President of the Senate.

Approved, February 9, 1852.

H. W. Collier.

he may deem advisable; and that on his order a warrant may be drawn to pay for the same.

Approved, December 22, 1851.

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### JOINT RESOLUTION

To provide for the better preservation of the state archives and warming the senate chambers and hall of the house of representatives:

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the governor of this state be and he is hereby authorised and required to cause suitable shelves to be constructed in the executive and state offices, for the better protection of the public records; and that the accounts for such work as may be necessary in the construction of such shelves and other receptacles necessary under this joint resolution shall be paid, upon the certificate of the governor, out of any money in the treasury not otherwise appropriated.

2. Be it further resolved, That the governor be authorised and required to cause suitable furnaces to be erected in the basement of the state house for the purpose of warming the senate chamber and the hall of the house of representatives; and the expenses therefor, when certified by the governor as being correct, must be paid out of the public treasury, and the comptroller must draw his warrant for the same in favor of the person entitled to the money.

3. And be it further resolved, That the governor be authorised to dispose of the stoves furnished said chamber and hall.

Approved, February 10, 1852.

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### JOINT RESOLUTION

To provide for the placing of the city clock of Montgomery upon the state capitol.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the city authorities of the city of Montgomery be authorised to place the city clock of Montgomery upon the state capitol.

Approved, February 9, 1852.

## JOINT RESOLUTION

For the relief of Brittan and DeWolf, state printers.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the bid of Brittan & DeWolf for the public printing for two years, commencing first Monday in December, 1851, be and the same is hereby taken and considered as if made on the act of 1840, (Clay's Digest, 370,) instead of the act of 1843, as stated in their bid dated 3d of November, 1851; and that they shall be paid for the public printing as if the said bid were at 75  $\frac{1}{3}$  per cent. upon the prices fixed in the act of 1840 above named: Provided, and it is the true intent and meaning of this resolution, That for 100 cents given by the said act of 1840 the said Brittan & DeWolf shall receive 24  $\frac{2}{3}$  cents.

Approved, January 21, 1852.

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## JOINT RESOLUTION

To provide for the insurance of the state capital.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor be authorised and requested to effect at as early a day as possible full insurance of the state capitol, together with all the public property therein contained; and that he be authorised to draw his warrant upon the treasurer for the amount of premium to be paid.

Approved, November 21, 1851.

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## JOINT RESOLUTION

To provide for the payment of Elijah Harman, of Hancock county.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller of public accounts draw his warrant on the treasurer in favor of Elijah Harman for such mileage and per diem as is allowed to members of the general assembly to the 15th of November inclusive.

Approved, November 21, 1851.



## JOINT RESOLUTION

Authorising D. Hopkins to draw the pay due Hon. John R. Larkin,  
deceased.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That D. Hopkins be and he is hereby authorised to draw for and receive whatever pay may be due the Hon. John R. Larkin, late a member of the house of representatives from the county of Sumter, and apply so much of it as may be necessary to discharge his board and other expenses incurred by him in the city of Montgomery.

Approved, February 5, 1852.

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## JOINT RESOLUTIONS

Expressive of the sense of the general assembly of Alabama in relation to the policy to be pursued by our government in its intercourse with foreign nations.

Whereas, from any indications of popular feeling in some of the state of this government, and from the speeches and acts of many public men high in the confidence of their own constituents and in that of the people of the United States, we are led to the belief that a spirit of interference in the political affairs of the European continent prevails to so great an extent as to induce the fear, that for the want of calm reflection, we may be involved in all the troubles and difficulties of the political affairs of nations and people far removed from us:

1. Be it therefore resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That we hold it to be the duty of the government and the people of the United States to cultivate relations of amity and good will with all the nations of the earth. In peace, to treat all as friends; in war, enemies; and to have entangling alliances with none, and to practice literally the doctrine of non-intervention.

2. Resolved, That the governor be requested to forward these resolutions to our senators and representatives in congress, with a request to lay the same before their respective bodies.

Approved, January 9, 1852.

## PREAMBLE AND JOINT RESOLUTIONS

Proposing to establish a more perfect intercourse with the Atlantic State of Georgia and South Carolina, and asking the legislatures of said states to remove obstacles to such intercourse.

Whereas, the people of Alabama are progressing with a system of internal improvements calculated and intended to establish not only a more perfect intercourse among themselves, but also, in the spirit of the constitution, with the people of their sister states of the union. With this view the state has exhibited no selfish motive; she has refused all restrictions to build up private interests in her own limits at the expense of the public good. Recognising the principle that in commerce we are one people, she has opened her borders to the free ingress of all the states, and allowed her own people to consult their own interest by seeking those markets where they can sell highest and purchase cheapest. By this liberal and national policy, no state in the union profits so much as our sister, the State of Georgia; its geographical position presents to it a rich field of commerce in the eastern, central and northern counties of Alabama, and efforts to build up local interests and favor our own seaport by any unsocial obstructions to this commerce on our borders have been steadily disregarded. Free permission has been given, not only to connect the improvements of the two states, but also the right of way freely granted through the southeastern corner of the state, to connect the sea ports of Georgia and Florida to the injury of her own. Alabama desires intercourse, not with one state alone, but in the spirit of the constitution and the union, her people wish a free and uninterrupted intercourse with all. The people of Alabama had hoped that this liberal policy on their part would have been met by a just reciprocity on the part of their neighbors. In this they regret to find that as yet their just hopes and expectations have not been met; the great chain of communication between Alabama and the Atlantic states is interrupted by onerous and oppressive exactions at Augusta. No appropriations are asked of the state to remove these obstructions; simply permission to avoid them is all that is desired, and private enterprise will do the rest. The exactions are too heavy to be viewed as tolls for any convenience to the public, and can only be viewed as a tribute for the privilege of crossing a state line. If intended as abounty to the city of Augusta, they can scarcely be defended on any principle; if the purpose be to force an unnatural intercourse with Savannah, they are directly opposed to the fundamental principles and objects of that constitutional union of which Georgia professes to be the advocate. The port of Savannah is duly appreciated as a convenient Atlantic outlet for a large portion of the people of Alabama; to another large portion, however, it is inconvenient; and it is most respectfully submitted that they should

not be forced, under these heavy penalties, to an expensive and circuitous route in their intercourse with the other Atlantic states.

1. Be it therefore resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the legislatures of Georgia and South Carolina be respectfully requested to take such steps as may remove or avoid the grievances complained of, and secure an uninterrupted passage from one state to the other at or near the city of Augusta.

2. And be it further resolved, That the governor of this state cause to be transmitted to the governors of Georgia and South Carolina copies hereof, and that the same be laid before the legislatures now in session.

Approved, January 10, 1852.

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#### JOINT RESOLUTIONS

In reference to a ship canal across the peninsula of Florida.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the interest of the states bordering on the gulf of Mexico, as well as of those whose products find a market through this channel, is deeply involved in the inquiry, whether the expense, delay and danger which now burthen the commerce of the gulf in the navigation of the cape of Florida may not be avoided by constructing a ship canal across that state.

2. Be it further resolved, That such a work would strengthen the military defences of the country, lessen the political importance attached to the possession of the island of Cuba, and promote the agricultural and commercial interests of a large portion of the confederacy.

3. Be it further resolved, That our representatives be requested to urge this subject upon the attention of the present congress; and if such information is not now possessed as to the practicability of the work as to justify congress, with the consent of the State of Florida, in at once undertaking it, then to adopt the means by surveys or otherwise to procure the fullest knowledge of the subject.

4. And be it further resolved, That the governor of the state be requested to furnish a copy of these resolutions to our senators and representatives in congress, and also to the governors of the several states, that they may be laid before the several state legislatures at the earliest practicable period.

Approved, February 6, 1852.



## JOINT RESOLUTIONS

Recommending the establishment of a bureau of agriculture at the city of Washington.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That we concur with the general assemblies of the States of Rhode Island and Florida, in recommending the establishment of a bureau of agriculture in the department of the interior at Washington, whose province it shall be to superintend and promote the great interest of agricultural improvement in the nation.

2. And be it further resolved, That the senators and representatives of this state in the congress of the United States are hereby requested to use their influence to procure the necessary legislation by congress for the speedy establishment on a firm and permanent basis of a bureau of agriculture as expressed in the above resolution.

Approved, February 7, 1852.

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JOINT RESOLUTIONS.

Approving the votes given by the Hon. W. R. King and Hon. Jere.

Clemens, senators in congress from this state, on the final message of the adjustment measures in the last congress of the United States.

1. Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That we approve the votes given by the Hons. William R. King and Jere. Clemens, on the passage of the adjustment measures in the senate of the United States; and that we approve of the votes of those members in congress from this state who voted in the same manner.

2. Be it further resolved, That we regard those measures as a final settlement of the slavery question; and that we hold the non-slaveholding states bound in duty and good faith to adhere to the same and to cease the further agitation of the subject of slavery.

3. And be it further resolved, That a copy of these resolutions be forwarded to our senators and members in congress by the governor.

## JOINT MEMORIAL

Of the general assembly of the State of Alabama to the congress of the United States, asking an extension of the time of making selections of school lands in aid of valueless sixteenth sections in the Chickasaw purchase.

Under the provisions of the acts of congress, the first approved 26th February, 1845, the other approved 3d of March, 1847, the governor appointed an agent to select school lands in lieu of sixteenth sections in the Chickasaw purchase in Alabama. The agent reported that he had made the selections in the land district of Natchitoches, in the State of Louisiana; the governor then gave notice to the register of the land office at Natchitoches of the selections, and also requested the commissioner of the general land office to direct a withdrawal of the lands thus selected from sale. The latter complied with the request; the former stated in reply that part of the selected lands had been sold more than ten years before the selection; great delay has also occurred from the fact that the law requires a vote of the inhabitants of the township upon the question of acceptance.

The general assembly of the State of Alabama therefore ask congress to extend the time of making selections of the lands for a time sufficient to carry out the object intended.

1. Resolved, That our senators and representatives in congress be requested to urge the passage of a law by congress embracing the objects of this memorial.

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## JOINT MEMORIAL

To congress, asking an appropriation of lands to complete a geological survey of the state.

The senate and house of representatives of the State of Alabama in general assembly convened, would beg leave to represent to the senate and congress of the United States, that Professor Toumey, of the state university of Alabama, has heretofore made partial geological explorations in the State of Alabama, which have resulted in developing the facts that valuable mineral resources abound in many portions of said state. Alabama contains 32,462,080 acres of land; of which, according to the report of the commissioner of the general land office, 16,164,518<sup>28</sup><sub>100</sub> acres remained the property of the general government on the 30th June, 1850. The public lands contained, it is supposed, as much as seven-eighths of the mineral wealth of the state; consequently, the general government is largely interested in a

thorough survey of the state, whereby, doubtless, much of her public lands would be sold, which otherwise, would not. Again, Alabama has, from the lands lying within the state, paid many millions of dollars into the United States treasury.

Your memorialists deem it unnecessary to elaborate the subject, as they conceive it will at once suggest itself with so much force to your honorable bodies, as to secure an affirmative response to the prayer of your petitioners.

Your memorialists respectfully ask your honorable bodies to pass an act of congress, appropriating to the State of Alabama twenty-five thousand acres of the public lands of this state, in quantities according to the legal subdivisions, to enable the state to make a thorough geological survey; stipulating to commence in two years from the passage of said act, and to be completed in ten years from the time of commencement, or such other reasonable time as your honorable bodies may designate. And your petitioners as in duty bound will ever pray, &c.

1. Resolved, That the government be requested to forward a copy of this memorial to each of our senators and representatives in congress.

Approved, January 30, 1852.

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JOINT MEMORIAL

To the congress of the United States in relation to the depredations  
of the Creek Indians in 1836 and 1837.

To the Senate and House of Representatives of the United States of America in congress assembled: The memorial of the State of Alabama most respectfully represents to your honorable bodies, that in the year 1834, the government of the United States advertised and offered for sale at public outcry that portion of the public domain in Alabama known as the Creek Nation. This territory had been ceded to the United States by treaties ratified April 22, 1826, and April 12, 1832, made with the Creek tribe of Indians; the whole of which was offered for sale to the highest bidder as aforesaid in 1834, except the portion covered by Indian reservations. The treaty of 1832 empowered the Creeks to sell their reservations, under the contrroll and direction of the United States, which was mostly effected in the latter part of the year 1834, under the supervision of the agents of the government. It was in this way that these lands in the Creek Nation were occupied by the whites; and thus, for the first time in the history of the country, the white man by the policy of the government was settled among the Indians.

2. The citizens thus domesticated with the red man exercised a for-



bearance in their intercourse with the Indian truly commendable, and had no direct instrumentality in promoting the hostilities that broke out early in May, 1836, by which outbreak several of the most valuable citizens of Alabama and Georgia lost their lives, and many their property. This sudden assault by a lawless band of warriors upon the lives and property of the whites was beyond the control of the settlers; the government alone could have prevented it, by taking the necessary steps at an early period to move the tribe to its destined home beyond the Mississippi.

3. The Creek Indians, by the policy of the government long anterior to the outbreak in May, 1836, had become landless; they had planted no crops, the game was destroyed, and they had no means whatever of subsistence. In this desperate condition, they were forced to kill the cattle and other stock of the whites for support; which, with a few exceptions, was submitted to by the settler without redress or remuneration, as their condition bordered upon starvation. Mr. A. Balch, a government commissioner, appointed by the president to investigate the causes that led to the Indian hostilities in 1836, reported that in the latter part of the year 1834 the Creeks suffered for the want of food; that in 1835 they were reduced to a state of little short of starvation; but he said it was contrary to the policy of the government to supply them with food, as this act of benevolence would have retarded emigration. (See Executive Doc. 2d session, 24th congress, No. 154. page 157.)

4. This mistaken policy of the government to starve them into emigration, if such was the design, was the primary cause that led to hostilities, the loss of life, and the destruction of the property of her citizens, for which your memorialists now ask indemnity. Notwithstanding the frequent communications of governor Clay, of Alabama, and the executive of Georgia, besides many highly respectable citizens residing in the Creek Nation, to the secretary of war advising the government of the unsettled and discontented condition of the Creek tribe of Indians, and a strong probability of hostilities, their request for military aid to keep the Indians in subjection was not granted. (See Ex. Doc. 7th vol., 2d session, 24th congress, No. 276.)

5. At the commencement of the outbreak, those citizens of Alabama and Georgia residing in the nation who escaped the assaults of the hostile Creeks, were compelled to flee from their homes in haste to place their families in security out of the nation, leaving their property behind, which was either destroyed by the enemy or used by the United States troops and friendly Indians. The supplies thus furnished from the cribs, meat houses, barns, cattle and other stock of the citizens of Alabama and Georgia residing in the Creek Nation were absolutely necessary to support the troops of the government and friendly Indians that rallied to the rescue, until the government could furnish the needful provisions for the army. Besides, hundreds of cattle and

other stock were shot down by the friendly Indians under the command of general Jesup, to prevent their falling into the hands of the hostile Creeks. (See letter of honorable D. H. Lewis, the petition of Jeremiah Bennett and others, letter and affidavit of Col. John B. Hogan, United States emigrating agent, letters of Gen. Thomas J. Woodward, McLemore and other gentlemen of equal standing and respectability: Ex. Doc. 2d session, 25th congress, No. 127.)

6. Your memorialists would further represent to your honorable bodies that president Jackson, in his annual message December, 1836, brought the subject of the losses of the citizens of Alabama, Georgia and Florida to the consideration of congress, and recommended an appropriation for their indemnity. In pursuance of this executive recommendation, congress authorised the president to appoint a board of commissioners to investigate and report the amount of the losses sustained by Indian depredations in said states. L. S. Pease, J. M. Smith and Mr. Gibson constituted said commission; and after the necessary investigation in Alabama and Georgia, rendered their report to the Hon. J. R. Poinsett, secretary of war, the 28th of November, 1837. The amount claimed and proven by the sufferers, they report to be one million two hundred and fifty-seven thousand four hundred and seven dollars and thirty cents, out of which amount they allowed three hundred and fifty-five thousand seven hundred and ninety-seven dollars and ninety-two cents. This last sum was for real and actual loss. Said commissioners refused to allow any thing for consequential or resulting damages, though it seemed to your memorialists that to do so would be but an act of even-handed justice; but the government has not paid to this date either the actual loss for provisions or the resulting damages.

7. Your memorialists have been informed and believe that congress, by special enactment heretofore, has remunerated generals Clinch and Hernandes, and other citizens of Florida and Georgia, not only for real but resulting damages likewise. There can be no difference in the losses sustained by these gentlemen and the claimants of Alabama and Georgia, now knocking at the doors of congress for justice. It was not the fault of the settlers who resided on the lands purchased from the United States and the Creek Indians in good faith, that the hostilities occurred. No act on their part could have guarded against it. If there was error, it was on the part of the government in failing to make in time the necessary arrangements to emigrate the Creeks, always a restless and discontented tribe, at an earlier period; to have supplied them with food while preparing for emigration, and to have kept in the nation a sufficient military force to have awed them into subjection. If this had been done on the part of the government, your memorialists, in behalf of her citizens, would not feel constrained to ask congress to audit and settle the account of her citizens without further delay.

8. Your memorialists would further most respectfully represent to your honorable bodies, that the legislature of Alabama, at its regular session, 1836 and 1837, by its memorial asked the government to grant indemnity for the loss sustained by her citizens during the Indian hostilities of 1836 and 1837. This memorial was referred to the committee on claims of the house of representatives and a report was rendered thereon May 15th, 1838. In July thereafter said committee made a second report, more in extenso, which assumed the ground that that portion of the demand of the citizens of Alabama and Georgia for destruction of their property by the Creek aggressions should not be paid by the United States, as it was not the policy of the government to pay for property lost during a state of war, unless the demands came within the rules established by the laws of the United States approved the 9th of April, 1816. The other branch of the claim asking pay for property used to supply the government troops and friendly Indians with provisions and forage, the committee admitted and reported a bill for the payment of the same and recommended its passage; but as this occurred near the close of the session of 1838, the bill did not become a law for the want of time.

9. The grounds assumed by the committee on claims in rejecting the first branch of the account of the citizens of Alabama and Georgia, who sustained losses as aforesaid, however correct when properly applied, cannot exercise the slightest influence against the payment of the demand of the claimants in this application; the facts will not sustain the committee in its conclusion. In the report referred to, the main objections to indemnity rest on the plea that the depredations being committed during a state of actual war, it was not according with the policy of the government to indemnify the sufferers; the report of the committee aforesaid, upon which it is presumed the committee came to the conclusion that the losses sustained occurred during a state of war actually existing, is incorrect as will appear from the following facts:

10. The Indian outbreaks occurred the second day of May, 1836, and resulted in the death of Flournoy and others; this was the commencement of hostilities in 1836. The government of the United States took the census of the Creek Nation, 13th May, 1833, which exhibits the fact that the whole number of souls of the Creek tribe, exclusive of negroes, was 21, 762; of this aggregate the lower Creeks numbered only 8, 522, exclusive of negroes; and it was this portion of the nation that resorted to hostilities; The counties of Benton, Talladega, Randolph, Tallapoosa and Chambers were the homes of the upper Creeks, who did not embark in the outbreak. (See statements of Elbert Harris, Commissioner of Indian Affairs, Ex. Doc., 7vol., 1st session, 24th Congress, No. 276.)

11. The lapse of three years from the taking of the census to the commencement of the hostilities could not add any large number to



the enumeration. There were less than 3,00 warriors in the whole nation, and the upper Creeks, the most populous part, did not engage in the outbreak. Col. John B. Hogan, emigrating agent as aforesaid, by affidavit, declares that at the request of governor Clay, of Alabama, and general Jesup, of the United States army, he raised from 1,300 to 1,500 friendly warriors under the chief Opothle-Yoholo, and that five or six hundred more were raised under Jim Boy, and placed under the control of general Thomas J. Woodward. These forces constituted the bulk of the warriors of the Creek nation. The Creek and Cherokee delegations to Washington city, in their joint memorial to the Congress of the United States in 1850, in protesting against the bill which had passed the senate, making the annuities of the Creek nation bond for the destruction of the property of the claimants of Alabama, Georgia and Florida, in the outbreak of 1836, say that notwithstanding these outrages and wrongs, four-fifths of the nation (Creek nation) remained friendly, and united heartily with the forces of the United States in suppressing hostilities, and continued with them until the whole of those who were hostile were removed. But the muster rolls on file in the war department will give the exact number of warriors enrolled, to which your honorable bodies have free access; and the undersigned, in behalf of the citizens of Alabama who sustained loss, invite the most rigid scrutiny.

12. Your memorialists concur most fully with said delegations, that not more than one-fifth of the warriors of the Creek Nation were engaged in the hostilities of 1836, and deny that the contrary can be made to appear from any reliable source. Your honorable bodies are most respectfully asked to consider these facts; they are conclusive that a majority of the Creek tribe were not hostile in 1836 and 1837, and that the damage and loss sustained by the claimants in Alabama in the destruction of their property did not result from a state of actual war, as averred by the committee, but from the aggression of a remnant of the warriors of the nation, who acted without authority from the council of the nation, the only competent tribunal to declare war. If these are the facts, then it is obvious that the committee upon claims in their report acted from incorrect data in rejecting the claim of the sufferers in Alabama and Georgia. The law of 1816 has no just application to this demand; the property of the citizens was not destroyed by a foreign enemy and during a state of actual war, but a sudden outbreak beyond the control of the citizens or the council of the Creek Nation. The government alone had the power to guard against the assault of this small but lawless band of desperadoes, and having failed to do so, is alone responsible for the consequences. A small military force would have been sufficient to have kept the nation quiet; and this force was invoked by the executive officers of Alabama and Georgia in vain, for years before this outbreak. The citizens of Alabama and Georgia occupied the country as landholders, having purchased

their land of the government and the Indians; they were not intruders. The claimants then rely with the greatest confidence for redress upon the intercourse act approved June 30th. (See United States laws, vol. 23d, page 113.)

13. And your memorialists further represent unto your honorable bodies, that during the summer and fall of 1836, the Indians in the nation were collected by the authority of the United States at the camp of Lieutenant Sloan, preparatory to their removal. Such of the warriors as had been engaged in hostilities had mostly escaped to Florida. In the fall of the year, the depredations having ceased, the emigrants returned into the nation at the invitation of the government authorities and were assured by them of protection for the future. But in the month of December, 1836, a company of between 100 and 200 warriors escaped from lieutenant Sloan's camp and commenced hostilities afresh. On the last of December, 1836, they attacked the plantation of Dr. Cullen Battle, shot down a negro man, and burnt up the overseer's house and a smoke house newly filled with provisions for a year's supply for seventy negroes; and from thence proceeded through the nation committing their depredations until routed by the command of colonel Wellborn, and the survivors had escaped to Florida. These depredations were committed after the first outbreak had been suppressed and the country drained of the Indians; and after the emigrants had been invited back by the government authorities, present a case certainly by the Indian intercourse act of 1834.

14. At an early period after hostilities commenced, your memorialists brought to the consideration of congress the loss sustained by her citizens. There has been no neglect on the part of the claimants; their demand has been prosecuted against the government with due diligence, but in vain; the claimants had no authority or power to demand and receive restitution either from the Creek Nation or the troops in the service of the United States; there was no legal tribunal in which the claimants could have coerced the payment of their demands, either against the one or the other, though they are gravely told in the report of the committee on claims, that they must look to the troops in the service of the United States and the Indians for pay; but the committee did not indicate the modus operandi by which this could be effected. Whether this was designed to add insult to injury is left for the consideration of your honorable bodies, and further comment is unnecessary.

15. The government, in the removal of the Creek Indians to the country assigned them beyond the Mississippi, with a full knowledge of all the facts and losses sustained by the claimants, demanded no indemnity in their behalf; and having failed to do so by the intercourse act of 1834, must be responsible to the sufferers, or there would be a great wrong without a remedy. A fair construction of the act referred to gives the claimant a legitimate and equitable demand against

the government, not only for actual, but likewise for constructive or resulting damages.

16. The amount of the claims in the aggregate due the claimants in Alabama and Georgia cannot affect its legality and equity in the slightest degree; and if the sum total involved should be the means to elicit the most rigid investigation on the part of congress, your memorialists will have the most abiding confidence in its payment; investigation must result in the full liquidation of the demand, unless congress should depart from all the rules of law that have heretofore governed its action in the final adjustment of claims against the government. If it were even true that the loss of the claimants occurred during a state of war with the Creek tribe of Indians, yet the rule resulting from the act of 1816 could not in justice be applied to the settlement of the present demand. There is a vast difference between a war with Great Britain and a war with the Creek tribe of Indians. The law of 1816, under which the committee on claims rejected a part of the claims, was enacted a short time after the close of the war with England, and was designed by congress to govern the settlement of those demands that originated during that war; the one was a powerful foreign enemy, governed in their hostilities by the usages of civilized warfare, the other a tributary people, wholly under the control and power of the United States, and governed by rules of warfare peculiar to the savage. The tribe, from the first treaty with the United States in August, 1790, down to the last treaty in 1833, ever acknowledged its dependence upon the government. The United States by a small military force could and ought to have kept the tribe at peace; besides, the Creek Nation was too weak at the time of the outbreak to give rise to the application of the principle, that the government cannot be expected to protect the citizens from losses resulting from the law of 1816, so far as a civilized enemy is concerned is reasonable, for it is contrary to the usages of civilized warfare, to destroy private property unless occupied by an enemy. With the savage foe it is otherwise; it is their habit to destroy every thing that is destructable upon which they can lay their hands, as well the property in the possession of the government troops as the private dwelling of the settler. Indeed, the private dwelling of the citizen, unprotected by a sufficient force, is the first doomed to the torch and destruction. If this be true, then the reason of the rule can have no just application to the claims of the citizens of Alabama and Georgia who sustained loss by the aggressions of the Creek Indians in 1836. In civilized warfare the rule is equitable, in savage warfare it is absurd.

17. Your memorialist, the State of Alabama, further represents to your honorable bodies that it is now about fourteen years since the legislature of Alabama brought the subject matter of this claim to the consideration of congress, and nothing but an imperative sense of duty to the claimants of Alabama could now induce the state again to ask



the government to render justice to her citizens. There is no other tribunal on earth that has jurisdiction of the matter. The courts of the land are closed to the payment of the just demands of the citizens against the government, and congress has refused time after time to create any legal tribunal competent to adjudicate such demands and render impartial justice.

18. The accounts of the respective claimants of Alabama and Georgia are on file, and have been on file since 1837 in the office of the commissioner of Indian affairs at Washington, and open to the inspection of your honorable bodies; and your memorialists most respectfully ask your honorable bodies to act upon this long deferred claim without further delay.

11 Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That his excellency the governor be instructed to forward a copy of the memorial above referred to to each of our senators and representatives in congress, and that the former be instructed and the latter requested to use their best exertions to secure the accomplishment of its object.

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#### JOINT MEMORIAL

To the congress of the United States, praying a repeal or modification of the "proviso" to the 2d section of the act of September 28th, 1850, entitled an act to enable the State of Arkansas and other states to reclaim the "Swamp Lands" within their limits.

The general assembly of the State of Alabama beg leave most respectfully to call the attention of the congress of the United States to the proviso to the second section of "an act to enable the State of Arkansas and other states to reclaim the "Swamp Lands" within their limits," approved September 28th, 1850. This proviso, it will be observed, requires that the proceeds of the lands granted by this act, whether from sale, or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by means of levees and drains. We are entirely satisfied that such is the situation of the "swamp and overflowed lands" in this state, that the appropriation contemplated can result in no practical benefit, but would superinduce a total loss to the state of the lands or the funds derived from the sale of them.

Under this view of the case, we respectfully ask that congress will so modify the proviso referred to as to permit the legislature of Alabama in its discretion to appropriate the lands referred to or their proceeds to purposes of internal improvements.

1. Resolved, That the governor be requested to communicate a copy

of this memorial to our senators and representatives in congress, that they may present the same to their respective houses.

Approved, February 6, 1852.

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JOINT MEMORIAL /

To dispose of certain lands' therein named.

The Joint Memorial of the Senate and House of Representatives of the State of Alabama to the Senate and House of Representatives of the Congress of the United States, now assembled at Washington, in the District of Columbia: Your memorialists respectfully show to your honorable body, that they are informed and believe that there are several small islands of land within the State of Alabama, lying upon the waters of the Coosa and Tallapoosa rivers, a portion of which is in the Coosa and a portion in the Tallapoosa, which is unsurveyed and unsold; the quantity of land included in said islands is not known, but is supposed to be between five hundred and fifteen hundred acres. Your memorialists, therefore, pray your honorable body to pass an act authorising the State of Alabama to cause a survey and sale of said islands, and that she be allowed to appropriate the proceeds to state purposes. And as your memorialists are in duty bound, will ever pray, &c.

Approved, January 6, 1852.

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JOINT MEMORIAL

To the congress of the United States by the general assembly, asking an appropriation of land to aid in the establishment of a hospital for insane persons, for the education of the blind and deaf and dumb.

A Joint Memorial to the Congress of the United States by the General Assembly of Alabama, asking an appropriation of land to aid in the establishment of a hospital for Insane persons for the education of the Blind and Deaf and Dumb: Nearly one half the land lying within the limits of Alabama is owned by the general government and consequently not subject to taxation. The price at which our citizens are permitted to enter these lands is so high as almost completely prevents its becoming private property. Congress has heretofore refused to reduce the price of these lands, thereby evincing a determination to remain the possessor of nearly half our soil. If

congress had heeded any of the various joint memorials made by the general assembly of Alabama on the subject of reducing the price of government land within our borders, much of this land would have long since become the property of individuals, would have been in a high state of cultivation, would have been made taxable, and would have become the home for a vast number of our people.

If the title of the government to those lands were extinguished and they were subject to taxation, the State of Alabama could then, by a moderate system of taxation, raise a fund for common schools, for a hospital for the insane, for the education of the blind and deaf and dumb; but restricted as we are as to the resources of revenue, by the proprietorship of this great land holder, we have a claim founded in moral justice upon the general government to aid by liberal grants of public lands these interesting objects of state regard.

This general assembly, therefore, earnestly ask that congress pass a law granting to the State of Alabama a sufficient quantity of public land within our state to aid in establishing, upon a permanent basis, a system of common schools in this state, to establish a hospital for insane persons and to educate the blind and deaf and dumb.

1. Resolved, That our senators and representatives in congress be requested to introduce the subject to congress and urge the passage of a law granting the lands asked for; and that the governor be requested to furnish our senators and representatives with a copy of this memorial.

Approved, February 10, 1852.

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#### JOINT MEMORIAL

To the congress of the United States praying a grant of land to equalise the sixteenth section school fund.

The joint memorial of the State of Alabama in general assembly convened to the senate and house of representatives of the United States of America in congress assembled, respectfully shows to your honorable bodies, that although great good has resulted to many of our fellow-citizens from the munificent grant of the sixteenth section in each township in this state for educational purposes, yet there is great inequality existing in the benefits flowing from said grant, from the fact that the soil of our state is much diversified, much more poor land than rich; and it is with us, as in all other countries, the more wealthy of our fellow-citizens, who are most able to educate their children, occupy the rich soil where the sixteenth sections are most valuable, while the poorer part, who are less able to afford their children even the means of a common education, occupy the poor lands, not of



choice, but of necessity, where the sixteenth sections are valueless or comparatively so, affording little or no aid in the education of their children who need it most. Seeing then that this law of congress granting to Alabama the sixteenth section in each township does not have that uniform and equal bearing that congress no doubt believed it would have, and which the constitution of the United States required that all laws of congress shall have, and seeing that congress has the means to make it equal, and that, too, without any material injury or detriment to the general government, we, therefore, most respectfully ask, that you pass an act granting to the State of Alabama a sufficient quantity of the unsold and unappropriated lands within this state that will make ~~asm~~ sufficient to equalise the sixteenth section school fund; and as in duty bound will ever pray.

Approved, February 10, 1852.

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#### JOINT MEMORIAL

Of the general Assembly of the State of Alabama to the congress of the United States for the graduation of the price of public lands.

The general assembly of the State of Alabama do most earnestly request the congress of the United States to reduce the price of the public lands within the State of Alabama, which have for so long a time been put upon the market but remain unsold. Notwithstanding this request has often been made to congress by the legislative assembly of Alabama, no notice has been taken of it; and but for the good and substantial reasons which exist in our favor, we should despair of obtaining a favorable response to this memorial. It cannot be denied that nearly every acre of government land in Alabama is comparatively worthless, all that was valuable having been entered. Every one acquainted with this subject in our state will admit this fact, and the small returns of entries made from the different land offices to the general land office will substantially prove it. Then, why is it that congress will still persist in refusing to reduce the price of these lands? The people of Alabama see and deeply feel the injurious consequences of having a privileged land holder, whose domain embraces, even at this time, nearly half the area of the state. They earnestly desire that the title of the general government to territory within the state should be extinguished; that it should pass into other hands and be subject to state tax. In view of the benefits which must necessarily arise, not only to the State of Alabama, but to the general government, by the reduction of the price of those lands, we ask that congress graduate the price on the following scale: Lands subject to entry from ten, fifteen, twenty and twenty-five years, be reduced the first to one

dollar per acre; the second to seventy-five cents; the third to sixty cents, and the fourth to fifty cents. This reduction would greatly increase for years the revenue of the government from the sale of lands, would cause much of the poor lands to be brought into cultivation, which under a proper system of tillage are susceptible of a high state of improvement, and would hasten the disconnection of the United States with our land titles.

1. Be it resolved, That the governor furnish our senators and representatives in congress with a copy of this memorial; and that they be requested to urge the passage of a law by congress embracing the object contained in the memorial.

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#### JOINT MEMORIAL

Of the general Assembly of the State of Alabama to the congress of the United States.

The general assembly of the State of Alabama would respectfully represent to the government of the United States, That by the terms of the grant by congress of every sixteenth section in aid of education to the inhabitants of each township, operates so as to deny in many instances to those most in need of assistance all participation in the benefits intended to be conveyed by that liberal grant. In a large majority of the townships in this state, the value of the sixteenth sections is so little in amount that the numerous and worthy inhabitants who find subsistence on the small bodies of tillable land in regions of the state generally unproductive and unfit for cultivation, derive no benefit whatever from the sixteenth section school fund. We are therefore induced to memorialise congress to grant to the State of Alabama, in aid of the school fund for such townships as may have valueless sixteenth sections, a portion of that large quantity of land held by the general government within the borders of this state, much to the injury of the permanent prosperity and the pecuniary condition of the state, and from its comparative want of value can never be of any great use to the United States. Under such a state of facts we feel authorised to ask that congress shall grant liberally of these waste lands in our borders to aid in educating that portion of the youth of the country who, from their local and pecuniary condition, do not receive the advantages of education without such assistance.

## JOINT MEMORIAL

To the congress of the United States upon the subject of public lands and rail and plankroads.

To the congress of the United States--The joint memorial of the two houses of the general assembly of the State of Alabama respectfully shows: That there are some sixteen millions of acres of unappropriated public lands within this state; that these lands have been subject to sale at private entry for a long term of years; owing more to their peculiar localities than to their want of adaptation to the purposes of agriculture, these lands have not been in demand. The citizens residing in the counties covering the larger portions of these public lands are sparsely settled and are not able to construct such works of internal improvements as will place their particular sections in connection with the more favored portions of the state, without which these lands must for a long series of years yet to come remain unproductive to the government of the United States, and a great detriment to the property of Alabama. Other portions of our citizens have united with the citizens of these remote sections of the state in their efforts to open up such communications, by means of rail and plankroads, as will bring them in connection with the navigable streams of our own state and with the great railway communications of our sister states, the natural tendencies of which will be to create a demand and impart increased value to the public domain through which they pass.

The most important of railroad enterprises which are now in progress and in contemplation are the Alabama and Tennessee River railroad, intended to connect the navigable waters of the Mobile Bay with the Tennessee river; the Tennessee and Coosa river railroad, which is a continuation of the first named road; the Coosa and Chattooga river railroad, which is designed as a connecting link between the Alabama and Tennessee river railroad; with the Western and Atlantic railroad of Georgia, and with the great railroad communications now being made through the valleys of East Tennessee and Virginia; the Girard and Mobile railroad; the Mobile and Ohio railroad, and the Memphis and Charleston railroad. Besides these, there are important plankroads in process of construction and in contemplation for which charters have been obtained, intended as feeders to contiguous railroads, and to afford facilities to those sections not immediately benefitted by said railroad communications.

Your memorialists have confidence in the integrity and energies of the several companies organized to effect the great objects indicated, and have high hopes of their ultimate success.

These improvements traverse large sections of public lands. Your memorialists respectfully ask that congress will grant to each of the



said railroad compaines and to all plankroad compaines chartered and organised in this state, the right of way through the public lands over which they may severally pass, with the privilege of taking therefrom any earth, stone, gravel, timber or other material thereon, which may be needed in the construction of said road or roads, or of any appendage to the same.

Your memorialists further ask, that by way of aiding said rail and plankroad companies in the construction and completion of said roads, congress will grant to each of said railroad companies and to the several plankroad companies now being or which shall hereafter be constructed, upon such libwral terms as shall to congress seem just and equitable, every alternate section or half section of the unappropriated public lands through which such roads may pass; and also each alternate section or half sections of said lands aforesaid, for six miles on each side of said railroads, and for three miles on each side of said plankroads.

Your memorialists, in making said requests, are influenced by the belief that the government of the United States is not disposed to have the public domain enhanced by private enterprise and capital and withhold its reasonable aid from those who so palpably deserve it. Your memorialists are influenced also by reasons of public policy, for all believe it to be the duty of the general government to extinguish its title to the public domain within this state as speedily as possible, in order that our state may the sooner develop its resources and derive revenues from the same, the better to enable the said state to afford that aid and encouragement to its citizens in their works of enterprise which it would be a pleasure to do, were the revenues of the state commensurate with the wishes of its people and their anxieties for the success of the enterprises indicated. Therefore----

1. Be it resolved, That his excellency the governor be and he is hereby requested to forward a copy of this memorial and resolution to each of our senators and representatives in congress, instructing our senators and requesting our representatives to lay the same before their respective bodies, and use all laudable efforts to procure the passage of a law making the grants asked for.

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SECRETARY OF STATE'S OFFICE

Montgomery, Alabama, April 21, 1852.

It is hereby certified, that the foregoing Acts, Resolutions and Memorials are correct copies, collated with and corrected by the original rolls deposited in this office.

W. Garrett,  
Secretary of State.

# TABLE

## OF THE RATES OF INTEREST IN THE STATES OF THE UNION.

Compiled in pursuance of an act entitled "An act to regulate the mode of proving in courts of justice the rates of interest in the States of this Union," approved February 18, 1848.

Maine.....6 per cent.	New Hampshire.....6 per cent.
Rhode Island.....6 " "	Connecticut.....6 " "
Massachusetts.....6 " "	Vermont.....6 " "
New York.....6 " "	New Jersey.....6 " "
Pennsylvania.....6 " "	Delaware.....6 " "
Maryland.....6 " "	Virginia.....6 " "
North Carolina.....6 " "	South Carolina.....7 " "
Tennessee.....6 " "	Kentucky.....6 " "
Ohio.....6 " "	Indiana.....5 " "
Illinois.....6 " "	Georgia.....8 " "
Alabama.....8 " "	Missouri.....6 " "
Arkansas.....6 " "	Michigan.....6 " "
Iowa.....not known.	Florida.....8 " "
Texas.....not known.	Wisconsin.....not known.

Mississippi---Legal rate 6 per cent. ; on lent money, 8 per cent.

Louisiana---Legal interest, 5 per cent.; bank interest 6 per cent.;

Conventional interest not to exceed 10 per cent.

-----  
 SECRETARY OF STATE'S OFFICE,  
 Montgomery, Alabama, April 21, 1852.

Compiled and certified to be correct.

W. Carrett,  
 Secretary of State.

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# INDEX

ACADEMIES--See "Incorporations."

## ADVERTISING---

Charges for, by sheriffs and other officers regulated and restricted, - - - - 21

## AGENT----

For compensation of, for selecting lands in lieu of certain 16th sections, - - - - 49

Governor may appoint an, to collect certain moneys from general government, - - - - 51

## ALLEN, ELIZA ANN--Guardian---

May invest certain money of her ward in slaves, - 407

## APPEALS---

May be taken from the decisions of the mayor and aldermen of the city of Montgomery, - - - - 323

## APPORTIONMENT---

Of the state into seven congressional districts, - 8

Of senators and representatives, - - - - 8,9

## APPROPRIATIONS---

For the erection of a state hospital for the insane, 11,19

For the support of a school for the deaf and dumb, 19

For pay of the members and officers of general assembly, - - - - 50

For the civil list for 1852 and 1853, - - - - 88

For miscellaneous purposes and to divers persons, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 513, 516, 517, 518, 519, 521, 522, 523, 524.

## ARMS, PUBLIC---

Shall be distributed by the governor, - - - - 82

To be furnished to Wilcox male institute 387, Gibson

F. Hill's military academy, - - - - 388

Orrville Institute, 388, Tuskegee classical and scientific institute, - - - - 390

Mobile rifle company may exchange, for certain others, 389

## ASSESSMENT OF TAXES---

Judge of probate shall return abstract to the comptroller of public accounts, - - - - P 5

## ASSESSORS OF TAXES---See "Taxes."

## AUTAUGA COUNTY---

To regulate the pay of jurors in, - - - - 423

To provide for the indigent sick in, - - - - 429

To make permanent the court house of, - - - - 466

County treasurer of, to be elected by the people, - 477

## BALDWIN COUNTY---

Fees of the circuit court clerk increased,	-	-	-	456
Sheriff of, may do constable's business,	-	-	-	466

## BANKING---

The act to regulate the business of, amended,	-			53, 54
---	---	--	--	--------

## BANKS--

The transfer of stock in, regulated,	--	-	-	103
--------------------------------------	----	---	---	-----

## BANK--State and Branches---

The assistant commissioners of, shall report to the comptroller of public accounts the sixteenth section fund collected and not paid over,	-	-	-	29
Commissioner and trustee of, shall report to the comp- troller of public accounts in favor of the sixteenth sec- tions in certain cases,	-	-	-	33
Office of commissioner and trustee of, continued,	-			34
Duty of commissioner and trustee of, in selling stock owned by the state in the bank of Mobile,	-	-	-	37
Debt due to, by the late Benjamin Hudson may be ex- tended,	-	-	-	488

## -----Of Mobile---

The charter of, extended,	-	-	-	104
The stock held by the state in, to be sold,	-	-	-	37

## -----Northern of Alabama---

Incorporated,	-	-	-	105
---------------	---	---	---	-----

## -----Southern of Alabama---

Charter of, amended,	-	-	-	117, 118
----------------------	---	---	---	----------

## BARBOUR COUNTY---

May take stock in railroad,	-	-	-	225
-----------------------------	---	---	---	-----

## BENTON COUNTY---

County treasurer of, to be elected by the people,	-			477
---	---	--	--	-----

## BLOUNT COUNTY---

The pay of witnesses in, regulated,	-	-		424
The county treasurer of, to be elected by the people,				477

## BONDS, STATE---

To be renewed, and time of payment extended,				36
To provide for cancelling and registering, when re- deemed,	-	-	-	36

## BRASHER, LEROY--Deceased---

Administration on estate of, may be removed from Tal- ladega to Shelby county,	-	-	-	421
---	---	---	---	-----

## BRIDGE, TOLL---May be erected by---

Wilson Nesbitt,	478,	Joseph Chason,	479
William Wharton,	482,	L. S. Rhea,	482
John Holly,	483,	S. Chambers & associates,	484

## BURNING WOODS---

Penalty for, at improper seasons of the year,	-			52
---	---	--	--	----

## BUTLER COUNTY---

The county treasurer of, to be elected by the people,	477
The act to elect the county treasurer of, by the people,	
suspended, - - - - -	478
Certain act in relation to county treasurer of, repealed,	452

## CAHABA---

Certain acts of the town council of, ratified and confirmed,	330
--	-----

## CARLISLE, ELIHU---Deceased---

Certain real estate of, may be sold, - - -	408
--	-----

## CARRIERS, COMMON---

The liabilities of, defined in certain cases, - - -	43
---	----

## CAVITT, RICHARD---Deceased---

Bad and doubtful debts belonging to estate of, may be com-	
promised, - - - - -	411

## CENSUS TAKERS---

To provide for the payment of, - - -	55
--------------------------------------	----

## CHAMBERS COUNTY---

The appointment of patrols in, regulated, - - -	434
To compensate the county treasurer of, in certain cases,	466
Certain act in relation to commissioners' court of, repealed,	476
Additional fees allowed to constable in beat No. 12,	477
The county treasurer of, to be elected by the people,	477

## CHANCELLORS---

Penalty on, for failing to hold courts, - - -	73
Powers of, extending in granting injunctions, - - -	75

## CHANCERY, REGISTERS IN---

Duty of, in reporting delinquent chancellor, - - -	73
" " in making complete record of cases, - - -	76

## CHEROKEE COUNTY---

The road law in, amended, - - -	442,461
---------------------------------	---------

## CHOCTAW COUNTY---

The patrol laws in, amended, - - -	459
------------------------------------	-----

## CITIES--See "Incorporations."

## CITIZENS---

Sundry persons declared of Alabama, - - -	487,498
---	---------

## CLERK OF SUPREME COURT---

Shall send decisions to court below in certain cases,	65
Fees of, - - - - -	66

## -----Of Circuit Court---

Shall report prosecutions pending against persons in the	
penitentiary, - - - - -	71
Penalty on, for failing to make report, - - -	71
Shall make reversed indexes to records in office, - - -	71
Shall recopy record books in certain cases, - - -	72

## CODE OF ALABAMA---

Its operations in regard to taxes, restricted, - - -	5
--	---



## CODE OF ALABAMA--Continued---

To provide for the adoption, printing and distribution of,	22
Act supplementary to the, - - - - -	25
COFFEE COUNTY---	
To provide for paying jurors in, - - - - -	423
To provide for the indigent sick in, - - - - -	429
To provide for building a court house in, - - - - -	445
For the location of the court house in, - - - - -	454
In relation to lost records in, - - - - -	470
The county treasurer of, to be elected by the people,	477
COLEMAN, F. F.----	
Declared a citizen of Perry county, - - - - -	492
COLLEGES---See "Incorporations."	
COMMISSION MERCHANTS---	
The sale of cotton by, regulated, - - - - -	44
COMMISSIONERS OF REVENUE AND ROADS---	
In regard to election of, in Conecuh county,	444
" " " Talladega " - - - - -	444
" " " Fayette " - - - - -	447
" " " Marion " - - - - -	451
" " " Walker " - - - - -	453
Pay of, increased in Macon county, - - - - -	449
COMMON CARRIERS---	
Liability of, defined in certain cases, - - - - -	43
COMPTROLLER OF PUBLIC ACCOUNTS---	
His duty in regulating the assessment and collection of taxes,	6
" " " distributing tax law, - - - - -	6
" " " collecting 16th section fund from defaulters,	29
A clerkship created in the office of, - - - - -	81
CONECUH COUNTY---	
The attendance of witnesses in criminal cases regulated,	425
Line between, and Monroe changed, - - - - -	439
In regard to the election of commissioners of revenue	
and roads in, - - - - -	444
CONSTABLES----	
To provide for pay of, serving in justices' courts in sun-	
dry counties, - - - - -	464
Additional fees allowed to, in beat No. 12, Chambers	
county, - - - - -	477
CONTAGIOUS DISEASES---	
Duty of commissioners' court of revenue and roads in	
regard to, - - - - -	39
CONVENTION---	
The vote of the people to be taken on a proposition to	
hold, to reform and amend the constitution, - - - - -	527

## COON, JAMES--

Of Coffee county, may pay taxes in Covington county, 491

## COOSA COUNTY---

To provide for the indigent sick in, - - 429

## COSTS---

In regard to taxation of, in the supreme court, - 66

## COTTON---

Sale of, by commission merchants regulated, - 44

## COUNTY LINES---

Changed between Monroe and Conecuh, - - 439

" " Tuscaloosa and Jefferson, - - 440

" " Jackson and Marshall, - - 441

## COURTS, SUPREME---

The number of judges increased to five, - - 28

Office of reporter of decisions of, abolished, - - 28

Judges shall report their own decisions, - - 28

Head notes of decisions of, shall be published, - 65

Decisions shall be certified by clerk to court below, 65

## -----Chancery---

Established in Butler and Choctaw, and when held, 67

Times of holding, in the middle division arranged and fixed, - - - - 68

Additional term of, may be held in the 38th district, 68

## -----Circuit--Time of Holding---

In the sixth circuit, 70, Montgomery county, 70

Jackson, 73, DeKalb, 73

Cherokee, 73, Jefferson, 83

Extended in Shelby, - - - - 83

Powers of judges, of, in granting injunctions, extended, 75

" judge of, in Mobile, in transferring causes, 75, 76

" judge of, 6th circuit, in transferring certain

causes against R. H. Long, - - - - 78

## -----City of Mobile---

Powers of judge of, in transferring causes, - - 75, 76

Jurisdiction of, defined, - - - - 75

## -----Probate---See "Probate Court."

## -----Of Revenue and Roads---

Compensation for services connected with the revenue, 5

Duty of, in laying county off into election precincts, 25

Duty of, in regard to small pox and other contagious diseases, - - - - 39

May levy tax on ten-pin alleys, - - - - 49

Of Macon county, may sell certain land, - - - - 442

## -----Justices---In regard to, in--

Marion county, 433, Hancock, 434

Randolph, 435, Marshall, 435

## COURTS---Continued---

## -----Houses---Legislation concerning, in--

Washington,	438,	Coffee,	445, 454
DeKalb,	458,	Autauga,	466
Montgomery,	469,	Mobile,	473

## COVINGTON COUNTY---

Bailiff and jury certificates shall be taken in payment of county taxes in,	-	-	-	-	422
Pay of petit jurors in, regulated,	-	-	-	-	428
Restrictions imposed upon county treasurer of,	-	-	-	-	461

## DALE COUNTY---

To compensate jurors in,	-	-	-	-	424
The road law amended in,	-	-	-	-	461

## DEAF AND DUMB---

School for the education of, established,	-	-	-	-	19
---	---	---	---	---	----

## DECISIONS---

Of the supreme court shall be certified by clerk of court below,	-	-	-	-	65
Head notes shall be published,	-	-	-	-	65
Office of reporter abolished,	-	-	-	-	28
Shall be reported by the judges,	-	-	-	-	28

## DeKALB COUNTY---

To provide for the removal of the county seat of,	-	-	-	-	458
County treasurer to be elected by the people,	-	-	-	-	477

## DIRECT TRADE--Companies Incorporated--See "Incorporations."

## DIVORCES---

Of sundry persons,	-	-	-	-	90 to 100
--------------------	---	---	---	---	-----------

## DOSSETT, JOHN--Deceased--

His real estate may be sold,	-	-	-	-	417
------------------------------	---	---	---	---	-----

## ELECTIONS---

Shall be held upon the proposition to consolidate the 16th section fund,	-	-	-	-	30, 31
Shall be held upon the proposition to hold a convention to reform and amend the constitution of Alabama, and how returned,	-	-	-	-	527
To provide for contesting municipal, of Mobile,	-	-	-	-	324

## ELECTION PRECINCTS---

Established,	-	-	-	-	56
Abolished,	-	-	-	-	58
Each county shall be laid off into,	-	-	-	-	25
Election shall be holden in each,	-	-	-	-	25
Shall be numbered and boundary clearly defined,	-	-	-	-	25
Shall be entered of record in probate court,	-	-	-	-	25
When new arrangement shall take effect,	-	-	-	-	26
Future alteration of, how regulated,	-	-	-	-	26
Penalty on officers failing to lay off and designate,	-	-	-	-	26



## EMANCIPATION--

Of Charity and others, in Dallas county, - - 486

## ENGLISH, JAMES H.---Deceased---

Heirs of, relieved, - - - - 410

## ESTATES, PERSONAL---

Legislation in regard to, of

Saml Sevier,	407	E. Carlisle,	408
Z. Herndon,	408	J. P. Postin,	409
J. H. English,	410	John M. Hardy,	410
R. Cavitt,	411	Elizabeth Lindsey,	411
L. W. Pond,	412	J. Milner,	413
David Moore,	413	John Gunter,	414
John Dossett,	417	A. W. Kervin,	418
James Lowry,	419	R. S. Lavender,	415
R. F. Witherspoon,	418	S. Brasher,	421

## EXECUTRIX---

Eliza Jane Weeden may qualify as, of Wm. Weeden,  
deceased, - - - - 412

## FAYETTE COUNTY---

Election of commissioners of revenue and roads in,  
regulated, - - - - 447

The county treasurer of, to be elected by the people, 477

## FEES----

Of solicitors changed in certain cases,	- -	41, 80
Of clerk of supreme court,	- -	66
Of registers in chancery, clerks and judges of probate, for examining record,	- - - -	72
Of circuit clerk of Baldwin county increased,	-	456
Additional, allowed to constable in beat number 12, Chambers county,	- - - - )-	477

## FIELD NOTES OF SURVEY---

To be kept in the office of the secretary of state, 40  
Certified copies of, taken as evidence, - - - 40

## FIRE---

Penalty for firing woods at improper seasons of the year, 52

## FRANKLIN COUNTY---

Payment of jurors provided for in certain cases, - 427  
To provide for the support of lunatic paupers in, 432  
In relation to sales by sheriffs in, - - - 455

## FREE PERSONS OF COLOR---

Penalty for selling spirituous liquors to, - 80  
Guardian for, may be appointed, - - 81

## GATE----

May be erected on a public road by G. W. Taylor, - 479

## GLOVER, EDWIN A.---

May change a certain road, - - - - 485

## GOVERNOR---

His duty in regard to the hospital for the insane, -	10
In establishing school for the deaf and dumb, - -	19
May appoint an agent to collect certain moneys from the general government, - - - - -	51
May have tomb-stone erected over the remains of the Hon. J. R. Larkins, deceased, - - - - -	79
May appoint agent to settle with John G. Graham, lessee of the penitentiary, - - - - -	80
His duty in depositing public arms at different places in the state, - - - - -	82

## GRAHAM, JOHN G.---

Governor may appoint an agent to settle with, as lessee of the penitentiary, - - - - -	80
---	----

## GREENE COUNTY----

Additional compensation allowed to the sheriff of, for ex officio services, - - - - -	457
--	-----

## GUARDIANS---

For free persons of color, may be appointed, - -	81
The appointment of, regulated in certain cases, -	86
May be appointed for non-residents, in certain cases,	87

## GUNTER, JOHN---Deceased---

His real estate may be sold, - - - - -	414
--	-----

## GUYSE, MARY A.---

Entitled to hold certain property, - - - - -	496
--	-----

## HANCOCK COUNTY---

Justices' monthly courts established in, - - -	434
Duties of sheriff of, extended, - - - - -	447
Judge and sheriff of, relieved, - - - - -	451

## HARDY, JOHN M.--Deceased--

In relation to estate of, - - - - -	410
-------------------------------------	-----

## HENRY COUNTY----

Duty of sheriff in advertising sales, - - - - -	449
---	-----

## HERNDON, ZACHARIAH---

A guardian for the property and estate of, may be appointed,	408
--	-----

## HERON PASS---

Certain persons authorised to clear out, - - - - -	280
--	-----

## HIGHWAY, PUBLIC---

The act declaring the north prong of Fredric branch of the Warrior repealed, - - - - -	483
---	-----

## HOSPITAL, STATE--

For insane persons, established, - - - - -	10
--	----

## HUGHS, ROBERT--Deceased--

His heirs relieved, - - - - -	416
-------------------------------	-----

## INCORPORATIONS--

Of steamship compaines provided for, - - - - -	46
--	----

## INCORPORATIONS--Continued---

## -----Of Banks-----

Northern of Alabama,	-	-	-	-	105
Amended, Southern of Alabama,	-	-	-	-	117, 118
Extended, Mobile,	-	-	-	-	104

## -----Of Insurance Companies-----

Mobile Live Stock,	122,	Montgomery,	126
Wetumpka Mutual,	129,	Selma Marine,	132
Tuscaloosa Marine and Fire,	-	-	135
Amended----			

Fulton,	119,	Mobile Marine Railway	
Merchants,	121,	and,	120
Marine Dock,	138,	Fireman's	125

## -----Of Navigation Companies-----

Gulf and Atlantic Steam and Direct Trade,	-	-	139
Alabama Direct Trade and Exchange,	-	-	141, 145
Mobile and Vera Cruz Mexican Gulf Steamship Company,	-	-	145
New York and Alabama Steamship Company,	-	-	148
Mobile and Philadelphia Steamship Company,	-	-	151

## -----Of Railroad Companies--

Mobile and New Orleans,	155,	Cahaba Valley,	159
Eufaula,	164,	Russell,	166
Montgomery and Mobile,	171,	Will's Valley,	178
Florence and Nashville,	183,	Coosa & Chattooga river,	188
Alabama and Georgia,	195,	Alabama and Noxubee,	
Gainesville & Mississippi,	207,	(Mississippi,)	200
(And right of way granted to,)		Clanton, Aberdeen and	
Tuscumbia,	-	-	211
(And right of way granted to,)		Winchester and Ala-	
bama,	-	-	213

## Amended---

Alabama and Mississippi		Eufaula and Mobile,	218
rivers,	216,	Montgomery & West Point,	214
Memphis and Charleston,	218,	Alabama and Tennessee	
Girard,	215,	river,	344

## -----Of Plankroad Companies--

Peoples' Spring Hill or		Pratt,	232
Shell,	227,	Macon county,	234
Memphis, (Alabama,)	234,	Cherokee,	241
Cohechuh,	237,	Cahaba and Woodville,	244
Gadsden and Springville,	244,	Wilkins' Landing,	251
Lochopoka and Dadeville,	248,		

## Amended--

Tuscaloosa,	253, 255,	Montgomery & Wetump-	
Central,	254,	ka,	254
South,	256,	Mobile or Shell,	255



INCORPORATIONS--Continued--

-----Of Cities-----

Selma, - - - - - 295

Amended---

Tuscaloosa,	319,	Montgomery,	319, 322, 323
Mobile,	324, 328,	Netumpka,	329,, 330

-----Of Towns-----

Jefferson, (in Marengo		Daleville,	318
county,)	303,	North Port,	307
Frankfort,	309,	McKinley,	311
Oxford,	314,	Maysville,	315

Amended--

Salem,	322,	Huntsville,	343
Livingston,	336,	Fayetteville,	335
Jacksonville,	337,	Montevallo,	337
Florence,	339,	Hayneville,	338
Demopolis,	341,	Somerville,	340
Decatur,	333,	Clayton,	343
Cahaba,	331,	Oak Bowry,	339
Elyton,	337, 342,	Orion,	341
Benton,	340,		

-----Of University--

Masonic, - - - - - 367

-----Of Colleges-----

McGehee,	353,	North Alabama,	356
Presbyterian Female,	358,	Female, at Auburn,	359
Glennville Female,	360,	East Alabama Female,	372

-----Of Institutes--

Lowndesboro' Female,	361,	Gaston,	361
East Alabama, at Talla-		Montevallo Male,	368
dega,	367	Orrville,	371
Central, Southern, &c.,	370	Baptist Female, at Moul-	
Bascomb Female,	375	ton,	375

-----Name changed-----

Central Masonic, - - - - - 366

-----Of Seminaries----

Dadeville Masonic Female, 364, Wilcox Female, 366

-----of Academies--

Dadeville Masonic,	318,	Burnsville,	377
Brooklyn,	378,	Mill Town,	379
Salem,	381,	Rehoboth,	383
Mountain Home Female,	384,	Newbern Female,	385

## -----Of Medical Associations-----

Homeopathic Society of Montgomery,	-	-	-	-	259
Graeffenberg Medical Institute,	-	-	-	-	260
Medical Board at Tuskegee,	-	-	-	-	261
Charter of Mobile Medical Society extended,	-	-	-	-	260

## INCORPORATIONS--Continued--

## -----Manufacturing Companies--

Tallassee, number one,	262,	Tallassee, number two,	264
Elba, in Coffee county,	272,	Tuscaloosa & North Port,	273
Amended--Montgomery,	-	-	276

## -----Mechanics' Associations--

Montgomery,	270,	Mobile,	275
-------------	------	---------	-----

## -----Saving Companies--

Mobile,	-	-	277
---------	---	---	-----

## -----Fire Companies--

Tuscaloosa,	-	-	278
-------------	---	---	-----

## -----Volunteer Companies--

Pike Rangers,	391,	White Plume Riflemen,	391
Rough and Ready Invincibles,	-	-	392
Amended--Catoma Light Horse,	-	-	393

## -----Of Telegraph Companies--

North Alabama,	282,	Alabama and Mississippi,	285
----------------	------	--------------------------	-----

## -----Of Bridge Company--

Amended--Wetumpka,	-	-	286
--------------------	---	---	-----

## -----Miscellaneous---

Battle House Company of Mobile,	-	-	256
Bibb County Steam Mill Company,	-	-	265
Benton County Iron Works,	-	-	271
Mobile Baymen's Society,	-	-	286
Mobile Temperance Hall Association,	-	-	287
Alabama Historical Society,	-	-	288
Annual Alabama Conference of the M. E. church south,	-	-	289
Preachers' Aid Society of the M. E. church south,	-	-	289
Hebrew Benevolent Society,	-	-	290
Creole Union Benevolent Society of Mobile,	-	-	352

## INDEXES---

Reversed, shall be kept by clerks, judges of probate and registers in chancery,	-	-	71
--	---	---	----

## INJUNCTIONS--

Powers of judges of the circuit courts and chancellors in granting, extended,	-	-	75
--	---	---	----

## INSANE---

A hospital for the insane in Alabama established,	-	-	10
---	---	---	----

## INSURANCE COMPANIES--

The transfer of stock in, regulated,	-	-	103
See "Incorporations."			

## INSTITUTES--See "Incorporations."

## JACKSON COUNTY---

Line of, and Marshall changed,	-	-	441
--------------------------------	---	---	-----

## JAILORS---

The pay of, for keeping state prisoners increased,	-	-	50
--	---	---	----

## JEFFERSON COUNTY--

The time for electing keeper of the poor house in, changed, 430  
 A part of Tuscaloosa county attached to, 440  
 The county treasurer of, required to pay over certain  
 moneys, - - - - - 466

## JONES, JASON---Guardian---

May sell property of his ward, - - - - - 418

## JUDGES OF SUPREME COURT---

The number of, increased to five, - - - - - 28  
 Shall report their own decisions, - - - - - 28

-----Of Circuit Court---See "Courts Circuit."

-----Of Probate Court---See "Probate Court."

## JURORS AND JURY---

Legislation in regard to the mode of selecting and paying in---

Monroe county,	422,	Coffee county,	423
Autauga "	423,	Dale "	424
Perry "	424,	Tallapoosa county,	425
Morgan "	426,	Marion county,	427
Franklin "	427,	Tuscaloosa county, 426,	428
Covington "	422, 428,	Randolph county,	422
Butler "	464,	Russell "	464
Benton "	464,	Choctaw "	464
Washington county,	464,		

## LANDS---

Shall be taxed and pay taxes in the county in which  
 they lie, - - - - - 3  
 Certain lands vested in the Mobile and Ohio railroad  
 company, - - - - - 45  
 Certain lands may be sold by the commissioners' court  
 of Macon county, - - - - - 442  
 The sale of certain lands in Randolph county legalised, 448

## LARKIN, HON. JOHN R.--Deceased--

A tomb-stone to be erected over the remains of, - 79

## LAUDERDALE COUNTY--

May take stock in railroad, - - - - - 219  
 The sheriff of, may be paid for extra services, - - - 452  
 The road law amended in, - - - - - 460  
 A certain act restricting the commissioners' court repealed, 476

## LIMESTONE COUNTY---

To compensate county treasurer in, for certain services, 466

## LINDSEY, ELIZABETH--Deceased--

Certain real estate belonging to the estate of, may be sold, 411

## LINERS---

Certain persons declared, between Walker and Fayette,  
 439, Pickens and Tuscaloosa, - - - - - 440

## LOFTIN, ALFRED--A Minor--

Certain negroes belonging to, may be sold, - - - - - 441



## LOWRY, JAMES--Deceased--

His real estate in Benton county may be sold, - - - 419

## LUMPKIN, P. M.--Guardian--

May purchase slaves for his ward, - - - 407

## MACON COUNTY--

Time of paying taxes in, extended, - - - 469

Pay of commissioners of roads and revenue increased, - 469

## MADISON COUNTY--

May take stock in railroads, - - - 224

The county treasurer of, elective by the people, - 477

## MAPS OF SURVEY--

Certified copies may be given by the secretary of state, 40

## MARENGO COUNTY--

Time of paying taxes in, extended, - - - 436

Special tax may be levied in, - - - 437

## MARION COUNTY--

The drawing and paying jurors in, regulated, - - - 427

Justices' courts abolished in, - - - 433

Election of commissioners of revenue and roads regulated, - - - 451

Sales by constables; in, regulated, - - - 456

In relation to county treasurer of, - - - 457

The county treasurer of, elective by the people, - - - 477

## MARRIAGES LEGALISED--

Of William Covington and his wife Mary, - - - 100

" B. J. T. Harvill and his wife Jane E. L., 101

" Elijah M. Owens and his wife Nancy, 101

" John Woddell and his wife Delila, - - - 525

## MANUFACTURING COMPANIES--See "Incorporations."

## MARSHALL COUNTY--

To regulate the keeping of paupers in, - - - 433

Monthly courts in, abolished, - - - 435

The line of, and Jackson changed, - - - 441

## McCRACKEN, JOHN P.--Executor--

May remove property of his testator, - - - 415

## MCLESTER, W. W.--Deceased--

His estate relieved, - - - 419

## MECHANICS' ASSOCIATIONS--See "Incorporations."

## MEDICAL ASSOCIATIONS--See "Incorporations."

## MEDICINE--May be practiced by--

Elijah Osborn, 487, J. M. Randall, 487, 498

Stephen A. Kersey, 487, W. H. Allen, 487

John B. Callahan, 488, James Chandler, 495

William Dale, 495

## MEMORIALS, JOINT--

To congress, - - - 536, 537, 544, 545, 546, 547, 548, 549

## MILITARY CODE--

For the adoption and publication of, - - - 529

## MILITARY COMPANIES--See "Incorporations."

## MILITIA--

Certain beats in Franklin county consolidated, 394

Line between 71st and 91st regiments changed, 394

" " 1st and 35th " designated, 396

Additional beats established in---

Bibb, 395; Marshall, 396

Benton, 396; Jefferson, 397

DeKalb, 398,

Three beats in the 88th regiment divided, 396

Beat lines changed in Henry county, 439

## -----Laws----

Joint resolution for the adoption and publication of, 529

## MILL----

May be erected by Eli Davis on Black Warrior River, 483

" " Daniel Gilchrist on Tennessee

River, - - - - - 484

## -----Dam--

May be erected on Lost Creek by William R. King, 482

## MILNER, JOSHUA--Deceased--

The bad and doubtful debts due the estate of, may be sold, 413

## MOBILE--

The laws for the government of the port and harbor of,  
amended, - - - - - 329

## -----County--

The law regulating board of school commissioners in,  
amended, - - - - - 463

The judge of probate may copy certain books, 468

The mode of receiving and disbursing the revenue of,  
changed, - - - - - 470

The road law of, amended, - - - - - 473

The commissioners' court of, may borrow money to complete  
the court house, - - - - - 474

## -----City Courts--See "Courts."

## MONROE COUNTY--

The pay of jurors increased in, - - - - - 422

The line between, and Conecuh changed, 439

## MONTGOMERY CITY--

In regard to the election of marshall of, 323

## -----County--

The court house in, to be rebuilt, 469

Special tax may be levied in, 469

A certain road may be established in, 476

## MOORE, DAVID--Deceased--

The bad and doubtful debts due the estate of, may be sold, 413.

## MORGAN COUNTY--

The prompt pay of jurors in, provided for, 426  
 To compensate county treasurer of, for certain services, 466

## NAMES CHANGED--

Alexander Hall to Alexander Toney, 101  
 Elijah Hall to Elijah Toney, 101  
 Hugh L. White Hall to Hugh L. White Toney, 101  
 Eliza Caroline Nettles to Eliza Nancy Rebecca Marshall, - - - - - 102  
 Sarah Isabella Scull to Sarah Isabell Kennedy, 102  
 Alexander Simpson to William A. Brooks, 102  
 William C. Phillips to William C. Earnest, 102  
 Milly Shaw to Milly Furguson, - - - - - 102  
 Martha Ann Sexton to Martha Ann Allen, - - - - - 103

## NAVIGATION--

Certain persons authorised to clear out Pass Heron, 280

-----Companies-- See "Incorporations."

## NESBITT, WILSON--

May erect a toll bridge, - - - - - 479

## OBSTRUCTION--

Of public highways by telegraph wires, - - - - - 42

## OATHS---

Required to be taken by officers of the penitentiary, 64

## OFFICE---

The act to preclude certain persons from, repealed, 55

## PASS, HERON---

Certain persons authorised to clear out, 280

## PATROLS--

Appointment of, regulated in,  
 Chambers, 434, 459 Choctaw, 459

## PAUPERS, POOR AND POOR HOUSES--

Legislation in regard to, in  
 Autauga, 429 Coosa, 429  
 Pike, 429 Coffee, 429  
 Jefferson, 430 Russell, 430  
 Franklin, 432, Marshall, 433

## PENITENTIARY--

To provide for leasing, 60  
 Agent to be appointed to settle with lessee of, 80

## PERRY COUNTY--

The road law amended in, 461  
 To compensate jurors in, 424  
 P. P. Coleman declared a citizen of, 492

## PICKENS COUNTY--

Sales by sheriff of, regulated, 452  
 In relation to the probate judge of, 475  
 The county treasurer of, to be elected by the people, 477

## PIKE COUNTY--

The county treasurer of, to be elected by the people, 477



PLANK ROADS--See "Incorporations."

POND, LEWIS W.--Deceased--

Bad and doubtful debts due the estate of, may be com-  
promised, - - - - -

412

POOR--See "Paupers."

-----Houses--

Lands may be purchased for the use of,

28

POSTEN, JAMES P.--Deceased--

Bad and doubtful debts belonging to estate of, may be  
compromised, - - - - -

409

PROBATE COURT--

Jurisdiction of, enlarged, - - - - -

84

-----Judge of--

His duty in regard to the collection of license tax,

4

His duty in the matter of holding election upon the  
proposition to consolidate the 16th section fund,

30, 31, 32

His duty in recording articles of copartnership,

46

Shall make and keep reversed indexes of record books  
in his office, - - - - -

71

Shall recopy certain record books,

72

Shall not be guardian in his own county,

84

May appoint guardians for non-resident persons in certain  
cases, - - - - -

87

May correct mistakes in certain cases,

86

Of Randolph may make titles to certain lots,

452

Of Mobile may copy certain books in his office,

468

Of Pickens duty of, regulated in a certain case,

475

Of Hancock relieved,

451

QUARTER MASTER GENERAL--

His duty and pay regulated, - - - - -

82

RAILROADS--See "Incorporations."

RAILROAD COMPANIES--

The liabilities of, defined and regulated,

45

Remedy against, for killing live stock,

46

The payment of tax by the Montgomery and West Point,  
regulated, - - - - -

46

The transfer of stock in, regulated,

103

To aid the Alabama and Mississippi Rivers,

209

Stock may be taken in, by the county of Lauderdale,

219

" " " " " of Madison,

224

" " " " " of Barbour,

225

Right of way granted to canton, Aberdeen & Tusculumbia,

211

" " " to Winchester and Alabama,

213

RANDOLPH COUNTY--

Certain acts in regard to pay of jurors, repealed,

424

In regard to justices' courts in,

435

The sale of certain lands in, legalised,

447

The county treasurer of, to be elected by the people,

478

## RANDOLPH COUNTY--Continued--

The act for election of county treasurer by the people,  
suspended, - - - - - 478

## RECORDS--

In relation to, in Coffee county, 470  
May be made up in DeKalb county, by John Cunningham  
and A. W. Majors, - - - - - 497

## REGISTERS IN CHANCERY--

Shall keep reversed indexes of books in office, 71  
Shall recopy certain records, 72  
Shall report failure of chancellor to hold courts, 74  
Penalty on, for failing to report delinquent chancellor, 74  
Duty of, in making complete record of cases, 76

## RELIEF, ACTS FOR--

Of heirs of Robert Hughes,		J. H. Cunningham,	416
deceased,	416	Heirs of J. H. English, de-	
Estate of W. W. McLester,		ceased,	410
deceased,	419	Mary C. Waters,	486
John Davis,	485,	Elijah Osborn and others,	487
Charity and others, in Dal-		Am. Dubose and others,	487
las county,	486	John Silsby,	488
Estate of B. Hudson, de-		R. F. Ferdue,	489
ceased,	488	J. W. Davis and others,	490
Joseph Henrick,	490	Joseph G. Evetts,	491
John Aday,	491	Thos. H. Helms,	492
David Campbell,	493	Sam'l L. Barnes,	494
W. B. Hargett,	494	Alex. Kelly,	494
Wm. A. Goodwin,	494	Chandler & Dale,	495
Margaret Boyle,	495	Phebe White,	495
James Parker,	496	Mary A. Guyse,	496
Ellsberry Fails,	496	Henry Traun,	497
Cunningham & Majors,	497	Alex. Rodgers,	498
Thos. T. Tunstall & others,	498	Mary E. Hughs,	499
S. R. Hereford,	499	W. F. Roberts,	500
James Claxton,	510	Rather and Orr,	512
A. Nance, et al.,	512	Gullatt and Bryant,	513
W. B. Crews,	514	Miles White,	514
John Schirm,	515	John Stuardi,	515
B. Howell,	516	Thos. H. Giles,	516
J. McCarroll,	516	W. McCarty,	517
Peter McGee,	517	Mark Boulware,	517
Young C. Hall,	518	J. Donley,	518
C. F. Lewis,	519	Thos. G. Cole,	520
E. and R. Brevard,	520	B. B. Rogers,	520
E. L. Moore,	521	John H. Gee,	521
Moses Johnson,	521	Aaron Askew,	523
H. F. Bizzle,	523,	J. M. Findley,	524
W. B. Locke,	524	J. C. Kirkland,	524

## REPORTER OF SUPREME COURT DECISIONS--

Office abolished, - - - - - 28

## RESOLUTIONS, JOINT--

To provide for taking the vote of the people upon the  
proposition for holding a state convention, 527

For adopting and printing, &c., the amended military  
code, - - - - - 529

As to the History of Alabama, 529

To provide for the better preservation of the state ar-  
chives, and warming the senate chamber and hall of  
the house, - - - - - 530

Granting leave to place the city clock on the state capitol, 530

For the relief of Brittan & DeWolf, state printers, 531

To provide for insurance on the state capitol, 531

For the payment of Elijah Harmon, of Hancock county, 531

Authorising D. Hopkins to draw the pay of Hon. J. R.  
Larkin, deceased, - - - - - 532

Expressive of the sense of the general assembly in re-  
lation to the policy to be pursued by our government  
in its intercourse with foreign nations, - - - 532

Proposing to establish a more perfect intercourse with  
the Atlantic States of Georgia and South Carolina,  
and asking the legislatures of said states to remove  
obstacles to such intercourse, - - - - - 533

In reference to a ship canal across the peninsula of  
Florida, - - - - - 534

Recommending the establishment of a bureau of agricul-  
ture at the city of Washington, - - - - - 535

Approving the votes given by Hon. W. R. King and  
Hon. J. Clemens, senators in congress, on the final  
passage of the compromise, - - - - - 535

## REVENUE--

The mode of collecting and disbursing, for Mobile coun-  
ty changed, - - - - - 470

## -----Laws--

Further to equalise and improve, 3

To prevent wilful evasions of, 7

Duty of all county officers in enforcing, 7

Penalty on county officers failing to enforce, 8

## RIGHT OF WAY--

Granted through this state to Canton, Aberdeen and  
Tuscumbia railroad company, 211

Winchester and Alabama railroad company, 213

## RIVER--

To remove obstructions in Tombecbee, 78

## ROADS--

To prevent obstruction of, by telegraph wires, 42

The act regulating the construction of, by incorporated  
companies, repealed in part, 44



## ROADS--Continued--

Mobile and Ohio railroad company, certain land vested in,	45
May be established in Cherokee county,	422
" " in Montgomery "	476
Edwin Glover may change a certain road,	485
West Point and Tallassee changed,	485

## -----Laws, Act to Amend--

As to Coosa county, repealed,			442
Amended;—			
In Lauderdale,	460	Cherokee,	461
Shelby,	461	Talladega,	461
Perry,	461	Dale,	461
Mobile,	473		

## RUSSELL COUNTY--

To establish a poor house in,	430
Relating to county treasurer of,	446
Bailiffs' certificates to be received by county treasurer,	460

## RUTLAND, THOMAS J. AND OTHERS--

Certain property belonging to, may be divided,	420
--	-----

## SALARY--

Of state treasurer increased,	50
-------------------------------	----

## SCHOOL--

For the deaf and dumb established,	19
Regulated in township nineteen, range two, west, in	
Sumter county,	406

## -----Commissioners--

Act regulating Mobile board of, amended,	463
--	-----

## SCRUGGS, JESSE--A Minor--

May purchase real and personal property,	490
--	-----

## SECRETARY OF STATE--

May give certified copies of maps and field notes,	40
--	----

## SEMINARIES--See "Incorporations."

## SEVIER, SAMUEL--Deceased--

Insolvent and doubtful debts due estate of, may be sold,	407
--	-----

## SHADE TREES--

Penalty for cutting down or destroying,	53
---	----

## SHELBY COUNTY---

Fay of officers in, for ex officio services regulated,	443
Road law amended in,	461

## SHERIFF--

Duty of, in holding election upon the proposition for a	
state convention,	527
Duty of, in Hancock county, increased,	447
Of Baldwin county, may do constable's business,	466
Duty of, in Henry county, in advertising sales,	449
Sales by, in Pickens county, regulated,	452
In relation to sales by, in Franklin county,	455
Additional compensation allowed to, in Greene county,	457

## SIXTEENTH SECTIONS--

Provision for collecting debts due for,	28
Debts due for, may be extended,	29
Election to be held in each township, to determine the question of consolidation of the school fund,	30
Commissioners of, may sue and be sued,	33
Certificates of stock shall issue to commissioners in certain cases,	33
For compensation of agent to select lands in lieu of, in Chickasaw purchase,	49
Notes given for, in townships fourteen and fifteen, range twenty-six, Russell county, may be retained by the school commissioners,	399
May be sold in township four, range three, Monroe county, Commissioner and trustee shall pay over certain moneys for benefit of certain,	399
Lands may be selected in lieu of, in township seventeen, range one, west, Sumter county,	403
Sales of, legalised in township nineteen, range twenty- eight, Russell county,	404
Debts due for, in township fourteen, range twenty-five, Macon county; may be extended,	416
In regard to, in township fifteen, ranges thirty and thirty- one, Russell county,	442

## -----Schools---

Regulated in township nineteen, range two, west, Sumter county,	406
---	-----

## -----School Commissioners--

May sue and be sued,	33
----------------------	----

## -----Patents---May issue to---

A. M. Lackey,	401,	Howell Peebles,	405
Mary Stephens,	405	Howell Dodge,	405
Mary Stallings,	405	John M. Crook,	405
William Ellit,	406	F. M. Mills' heirs,	413

## SLAVES--

The act in relation to trading with, amended,	82
---	----

## SMALL POX---

Duty of commissioners' court in regard to,	39
--	----

## SOLICITORS---

Their fees changed in certain cases,	41, 80
--------------------------------------	--------

## SPRAGGINS, R. S.--

May be compensated by the court of Madison county,	45
--	----

## SPIRITUOUS LIQUORS--

Penalty for selling to free persons of color,	80
---	----

## STATE HOSPITAL---

One established for insane persons,	10
-------------------------------------	----

## STATE HOUSE--

To provide a keeper for,	38, 80
--------------------------	--------

## STATE HOUSE--Continued--

To provide for the comfort of persons visiting, 32, 530

## -----At Tuscaloosa--

Donated to the University of Alabama, 55

## STEAMSHIP COMPANIES--

May be incorporated, and how, 46

See "Incorporations."

## STOCK---

Owned by the state in the bank of Mobile to be sold, 37

The transfer of, in banks, insurance companies and rail-  
roads, regulated, 103

## STEWART, J. J.--Guardian--

May purchase negro property for his ward, 406

## SUMTER COUNTY--

The time of paying taxes in, extended, 436

## SURVEYOR---

An additional, may be appointed in Cherokee, 441

Fayette, 441, Butler, 441

## TALLADEGA COUNTY--

Special tax may be levied in, to build a jail, 445

In relation to the election of commissioners of revenue  
and roads in, 6 444

## TALLAPOOSA COUNTY--

To provide for the payment of jurors in, 425

## TAX AND TAXES---

On passes canals or channels, 3

" All moneys lent, 3

" Playing cards, 3

" Bowie knives and revolving pistols, 3

" Daguerreotypists, 3

" Circus, &c., 4

" Ten-pin alleys and billiard tables, 4

" Lands, shall be paid in the counties/which they  
lie, 3

Duty of judges of probate in the collection of, 4

When, may be paid to county treasurer, 4

Duty of judge of probate in making abstract returns of  
assessment of, 5

Garnishee for the collection of, may be issued by judge  
of probate, 7

Remedies against persons seeking to evade the payment of, 7

Duty of all county officers in the security and collection of, 7

Commissioners' courts may levy a tax on ten-pin alleys, 49

Collection of, in the city of Mobile regulated, 6

The payment of, by the Montgomery and West Point Railroad  
regulated, 46



## TAX AND TAXES--Continued--

James Coon, of Coffee county, may pay, in Covington county, 491  
 Further time allowed for paying in Marengo, 436, Sumter  
 and Walker, 437

## -----Special---May be levied in

Walker county,	436	Coffe county,	445
Marengo "	437	Montgomery county	469
Talladega "	445		

## -----Assessor of--

How paid, 5  
 For assessing delinquents, 5

## -----Collectors of--

Shall record receipts for taxes in office of probate judge, 5

## TAXATION--

Certain property exempt from, 3

## TAYLOR, G. W.--

May erect a gate on a public road, 479

## TELEGRAPH WIRES--

To prevent obstruction of public roads by, 42

## -----Companies--See "Incorporations."

## TOMB STONE--

To be erected over the remains of the Hon, John R. Larkin,  
 deceased, 79

## TOMBECBEE RIVER--

For removal of the obstructions in, 73

## TOWNS--See "Incorporations."

## TRANSFER OF STOCK--

In banks, insurance companies and railroads regulated, 103

## TREASURER, STATE--

His salary increased, 50

Made receiver of two the per cent. fund, 51

## -----County---

Duty in collecting moneys due his county, 4

Of Jefferson county required to pay over certain moneys, 446

Relating to, of Russell county, 446

Butler county, 453 Marion county, 457

Restrictions imposed upon, of Covington county, 460

Duties imposed on, of Walker county, 465

To be compensated for services in Limestone, 466

Morgan county, 466 Chambers county, 466

To be elected by the people, in--

Madison county, 477 DeKalb county, 477

Pike " 477 Autauga " 477

Pickens " 477 Blount " 477

Benton " 477 Coffee " 477

Butler " 477 Marion " 477

Chambers " 477 Randolph " 477

## TREASURER--Continued--

The act to provide for election of, by the people suspended in--

Butler county, 478      Randolph county, 478

## TREES, SHADE--

Penalty for cutting down or destroying, 53

## TURNPIKE ROADS--

Duty of commissioners appointed to examine a certain, more fully defined, 450

M. D. Vance and H. R. Buchanan may construct, 480

## TUSCALOOSA COUNTY--

Mode of selecting grand jurors in, altered, 426

For compensation of jurors and witnesses in, 428

A part of, attached to Jefferson county, 440

## TWO PER CENT. FUND--

The state treasurer made receiver of, 51

A portion of, granted to the Alabama and Mississippi rivers railroad, 209

## WALKER COUNTY--

The levy of county taxes regulated, 436

In regard to the election of commissioners of revenue and woods in, 453

County claims shall be received in payment of fines, &c., 465

Relating to county treasurer of, 465

## WAREHOUSE KEEPERS--

The liability of, defined in certain cases, 43

## WASHINGTON COUNTY--

Special county tax may be levied in, 438

In regard to the court house of, 438

## WEEDEN, ELIZA JANE--

May qualify as executrix of William Weeden, deceased, 412

## WEIGHTS AND MEASURES--

To provide for the preservation of, 40

## WITHERSPOON, R. F.--Deceased--

His estate may be removed, 418

## WITNESSES--

In regard to summoning and payment of, in--

Blount, 424      Tuscaloosa, 428

Conecuh, 425

## WOODS--

Penalty for firing, at improper seasons of the year, 52

## UNIVERSITY, MASONIC--

Incorporated, 367

## VENUE--

May be changed in cases against R. H. Long, 78